

159.
SOME
MEMORANDUMS
OF
Matters of FACT,

Relating to the ORIGINAL and PRELIMINARIES of
A SUIT in *Doctors-Commons*,

BETWEEN

Sir *Hugh Everard* Baronet, Promoter, and *John Oswald*, Vica
of *Much-Waltham* in *Essex*, which are Prov'd either from th
Depositions of Witnesses, or from AUTHENTICAL PAPER
Exhibited in this Cause,

The COPIES whereof are here produc'd

And particularly,

The COPIES of some ORDERS made in the *Vestry* of the said
Parish, about *Raising Money* to carry on the said Suit.

And the COPIES of Three CERTIFICATES of Three Clergy
Men, appointed Commissioners in this Cause, concerning th
undue Practices of the Scribe in taking and setting down the De
positions of the Witnesses.

With some REELECTIONS upon them.

Wherein are some Things of Publick and General Concern

TO THE
CLERGY of ENGLAND,

Which are with all Humility Submitted to the Consideration of th
CONVOCAION now Assembled.

H Oswald (9) By J. O.

160
London, Printed in the Year MDCCII.

ROME

MEMORANDUM

Matters of F A C T

Relating to the ORIGINAL and PRELIMINARY of

A SUIT in Debt-Contract

between

Sir James Bland Barrow, Bart., and John Owen, Vice
of said Barrow in fact, which are proved from the
Certification of Writings, or from AUTHENTICAL PAPERS
produced in this Cause.

The COPIES whereof are here produced



The COPIES of the PAPERS made in the Library of the
British Museum, to certify the truth of the
and the COPIES of the CERTIFICATES of James Owen
made, appended Certifications in this Cause, concerning the
truth of the Writings, and being down the De-
positions of the Writings.

With some REFLECTIONS upon them

Wherein are given Things of Publick and General Concern

TO THE

CLERGY of ENGLAND

Which are with all Humility submitted to the Consideration of the
CONGREGATION now assembled.

By J. O.

London: Printed in the Year MDCCLXXII.

*Some Memorandums of Matters of Fact
relating to the Original, and Prelimina-
ries of a Suit in Doctors-Commons,
between Sir Hugh Everard Baronet,
Promoter, and John Oswald Clerk, Vi-
car of Muchwaltham in Essex.*

SINCE it is my Misfortune to lie under a Publick Accusation for several Crimes, of which I know my self to be Innocent, and my Adversaries are very Industrious to disperse their Libel of Articles, and the Depositions of their Witnesses (without taking Notice of any Defence made against them) both in City and Country, among all sorts of Persons, as I am very well assur'd by several who have Read them; and since, their Proctor is so Malicious as to shew his Witnesses, and others, the foulest part of the Articles against me as certain Truths, though they are only unprov'd Allegations, or such as were disprov'd by their own Witnesses; and besides that, to add several Foul-Mouth'd Slanders of his own, which were never alledg'd in the Articles, on purpose to ruine my Reputation as far as he can: I thought it a Duty which I owe to the Church, whereof I am a Presbyter, as well as to my own Reputation, to lay together the following Matters of Fact, and the Proofs of them, which I hope may put some stop to the Progress of the Mischief intended by these base, and unworthy Practices, without entring into the Merits of the Principal Cause, and give some Satisfaction to all who are willing to Judge Impartially, how little Credit is due to the Stories spread about me, by the Promoter and his Agents, who appear by the following Facts, to have managed this Cause, with all the Arts of Falshood, Injustice and Malice. And this is all I intend at present, because I'm advis'd not to meddle with the Proceedings of the Courts, nor enter into the Detail of the

Particulars allēdg'd and Sworn against me, while the Cause is still depending; and therefore I have said nothing of the Articles, but only mention'd the manner of their Admission by the Judge, and the several Years in which the pretended Facts allēdg'd in them are said to be committed; nor have I attempted to disprove any one of the Depositions against me, but only made use of some of the Depositions taken in this Cause, to prove the Matters of Fact here allēdg'd, which were antecedent to the Commencement of the Suit, until I shall be at Liberty to make a more particular Defence if ever there shall be occasion for it. To these I have added the Copies of several Authentical Papers; and particularly, the Copies of some Orders of Vestry, made in the Parish of *Much-waltham*, to shew what Illegal Courses have been taken for carrying on this Suit; and the Copies of the Certificates of three Commissioners, to shew how little Credit is due to the Depositions, as they were taken by Mr. *Edward Alexander* the Scribe: And in doing all this, I have been very careful to set down nothing but what is exactly true, and to avoid giving any just cause of Offence.

In order to give some Account of the Original of the Difference between Sir *Hugh Everard* Baronet, Promoter, and *John Oswald* Clerk, so far as it can be prov'd by sufficient Evidence; It may be necessary to shew in what Terms the said Sir *Hugh* stood with him, before this Difference was begun in the Year 1697.

And therefore the first Memorandum is: That the said Sir *Hugh Everard* liv'd in a state of Friendship with the said *John Oswald* for several Years before this Difference begun, appears by the Deposition of *James Bamford*, Gent. who liv'd some part of the Years 1695, 1696, and 1697, in the Parish of *Much-Waltham*, and has Deposed, 'That he had been several times in Company with the Producent (meaning *John Oswald*) and the said Sir *Hugh Everard*, and never observ'd them to be otherwise than very good Friends, *Process* p. 457. That the said Sir *Hugh* did declare his particular Esteem of the said *John Oswald*, in the Year 1696, appears by the Deposition of the Reverend Mr. *Thomas Dunbar*, Rector of *Faulkbourne* in *Essex*, who saith, 'That in, or about the Month of *June* or *July*, in the Year 1696, Sir *Hugh Everard* did send to this Deponent to Preach for the said Mr. *Oswald*, who was then absent: And the said Sir *Hugh*, the said time, did give the said Mr. *Oswald* a very good Character, and say, That he was a worthy, good Man, and deserved the Respect of his Brethren, or Words to that Effect, *Process*

Process, p. 370. That both Sir *Hugh*, and his Lady did in the Year 1696. declare a peculiar Affection to the said *John Oswald*, by expressing their great desire to see him, and doing him several good Offices, appears by the Original Letters under their Hands, Exhibited in this Cause, and kept in the Registry of the Consistory-Court, the Copies whereof are here subjoin'd. The first Letter mark'd N^o 1. is attested to be the Handwriting of Sir *Hugh Everard* by Mr. *John Goodeve*, *Process* p. 245. The other two were own'd by Sir *Hugh Everard* in Court, to be his Lady's Writing, which are mark'd N^o 5. and 6. As appears by the Minutes taken May the 14th 1700.

The Copy of a Letter from Sir Hugh Everard to Mr. John Oswald.

S I R,

I Receiv'd Yours, Dated the 23d. of *May*, and am very glad that you have chang'd your Lodging; and you must know, we almost long to see you, and I believe your Friends here are increas'd; the sooner you come the better, for there are some that believe you are not discharg'd, therefore I would stay no longer than Business requires. I desire you would call at Mrs. *Chiveley's*, at the *Tobacco-Roll* in *Chancery-Lane*, and desire her to send by you six Pounds of her best Tobacco, and to call upon my Sister *Sambrook*. All here give their Service. Mr. *Dunbar* Preach'd for you yesterday with a Fit of an Ague upon him, and would perform the Duty of the Afternoon, notwithstanding Mr. *Davies* read Prayers for you; and if you come late on Saturday, he will Preach on Sunday next. My Service to all good Friends.

May 25. 1696.

I am Your Assured Friend and Servant,
H. Everard.

The Copies of Two Letters from my Lady Everard to Mr. John Oswald.

S I R,

Good-Friday.

This is to let you know as you desire to hear; you was Rated in the Tax at 40 l. a-Year, but your Friends plead'd the Act of Parliament did not Tax you, it being not above 40 l. So the Commissioners struck out your Name. Thus you are to be Taxed nothing, which I am glad of. All the Care that can be is taken of the Parish, as yet there hath been no Omission.

Omission. There can be no Sacrament, nor Sermon, in the Morning on *Easter-Day*. Your Friends hope you may be down on *Saturday*, who will be glad to see you. Pardon this in your Servant,

Mary Hamon.

SIR,

March 29.

MY Master having been very Ill of a Cold, hindred his Writing to you; he hath order'd me to let you know Mr. Cox and Mr. Tomson hath these two Sundays supplied one part of the Day: There hath been two Children Christned by Mr. Tomson; there hath been no Body Buried since you went; we hope to see you next Week at home; if not, my Master will get Mr. Lydiat for the next Sunday. We find all the Neighbours very willing to supply in your Absence, which I hope will not be long. I am told, you are design'd to Read Prayers in Sir Charles's Family; therefore the sooner you return, the better, there being none at present. All Friends give you their Service, which is all at present from
Your Friend to Serve You.

How this Letter was Subscrib'd, does not appear, the Subscription being either worn out, or torn off; but the Minutes, May 14. 1700, say, That *John Oswald*, then Exhibited two Schedules, mark'd N^o 5. and 6. (meaning these two Letters;) and that Sir *Hugh Everard*, then present in Court, did confess, That the said Exhibites were written and subscrib'd by *Mary Hamon*, now his Wife. And why she should call her self by the Name of *Hamon*, (her Maiden-Name being *Brown*) I do not understand, unless she borrow'd this Disguise from one *Christian Hammond*, who was then my House-keeper; and much less can I understand how the great Affection and Esteem for *John Oswald*, express'd in these Letters, is consistent with the belief of these Immoralities now charg'd upon him, which are pretended to have been publicly Reported several Years before the Date of these Letters; For by the Tenor of these Letters, and Sir *Hugh's* Character of *J. Oswald* abovemention'd, it appears they look'd then upon all such Reports against him, as Lies and Slanders. But how this Love and good Opinion came to be changed into Hatred, and Ill-will, may appear in some measure by what follows in the next Paragraph.

Memorand. 2. That Sir *Hugh Everard* was Indebted to the said *John Oswald* for the Tythes of a Farm, call'd *South-house*, for the Years 1684, and 1685, being the two first Years after he was made Vicar of the Parish of *Much-Waltham*. That the said *John Oswald* was willing to take 20 s. a Year for the said two Years from

from Sir *Hugh Everard*, though he hath constantly Receiv'd from the Farmer of the said Farm ever since, after the rate of 23 s. a Year, as appears by his Books of Accompts, and the Acquittances given to the said Farmer: That the Sum of 40 s. due for the said two Years was several times demanded of the said Sir *Hugh Everard* in his Father's Life-time, who then excus'd himself for not paying it, because he had not Money: That the said *John Oswald* being unwilling to give him any Trouble upon that Account, and believing that he wanted Money, did forbear to press him further about it until his Father's Death, hoping he would then be as willing as able to pay, when he was possess'd of his Father's Estate: But, to the great disappointment of the said *J. Oswald*, he found, that the said Sir *Hugh Everard* did not only refuse to pay the said Debt, and other things then due, when they were civilly Demanded of him, in the Year 1697. after his Father's Death, but was very Angry with him for asking the said Dues, and upon that occasion gave him some hard Words. That this Original of the Difference between the said Sir *Hugh*, and *John Oswald*, was Industriously conceal'd by those Witnesses who knew it very well, appears from a Letter I Receiv'd from one of the Commissioners, wherein he observes, ' That *John Boosey*, who is a ' Crony of Sir *Hugh's*, at first declared, by the Oath he had taken, ' That he knew nothing at all of any Difference between Mr. *Oswald* and Sir *Hugh* about Dues or Tythes, until, *says he*, we ' press'd it upon his Conscience, and then he retracted. But in his Deposition there is nothing said about it, but ' That he knows there ' is a Difference between Mr. *Oswald* and Sir *Hugh* about Tythes, & *aliter nescit deponere*, says the Scribe; though the Witness knew very well how the said Tythes, and other Dues had been Demanded, and were refused; and that the Matter was refer'd to Arbitrators, as is contain'd in the sixth Article of that Allegation to which he was Examined, *Process. p. 413*. And *John Rust*, a Servant in Sir *Hugh's* Family when the Difference begun, being Examined to *Inter. 11*. in these Words, ' Do you not know, believe, or have heard, that Mr. ' *Oswald* did at some time in the Years 1697, or 1698. Demand ' his Tythes or other Dues of Sir *Hugh Everard*, and that Sir *Hugh* ' refusing to pay the same, the Difference between them was re- ' ferr'd to Arbitrators, makes Answer, That he knows nothing of the Matter, *Resp. Negative & nescit*, says the Scribe, though it was Impossible that he could be Ignorant of these things, which made a great Noise in the Neighbourhood, as is observ'd in the aforesaid Letter from a Commissioner, and is Confirm'd by the Deposition of

Roger

Roger Knightbridge, Junior, who says, ' That he hath heard there ' was about a Year ago, (*i. e.* about *April*. 1699.) a Contest between ' *Mr. Oswald* and *Sir Hugh*, about Tythes, *Process* p. 430. But notwithstanding these deceitful Tricks that were used to conceal the truth of this Matter; That there was such a Difference between *Sir Hugh*, and *John Oswald* about Tythes, and other Dues, about the Year 1697. That the said *John Oswald* being unwilling to go to Law with him for the said Debt, referr'd the Matter in Question to two Arbitrators, and being very desirous to make an End of the Difference, offer'd to make a considerable Abatement of the Just Debt for Peace sake, does plainly appear from the Deposition of the Reverend *Mr. Tho. Cox*, who was one of the two Arbitrators, to the sixth Article of *J. Oswald's* first Allegation, in these Words; ' That about two Years and a half since, this Deponent heard ' that there was some Controversie between the Producent (*meaning ' the said J. Oswald*) and *Sir Hugh Everard* about some Tythes due ' to the Producent from a Farm call'd *South-house*, and for the ' Funeral-Dues of the said *Sir Hugh's* Mother and Father, and also ' for the Tythes of Cows, and other Cattle, and likewise of the ' Fruit and Herbage of the said *Sir Hugh's* Garden, which Controversie was about two Years ago referr'd to this Deponent, and ' one *Joseph Whaples*, as Arbitrators in the Matters. And the said ' Producent did then demand of the said *Sir Hugh Everard* for the ' said Tythes of the said Farm call'd *South-house* for two Years ' two Pounds; for the Burial of his Mother, with a Sermon, 22 s. ' For the Burial of his Father, 8 s. For the Tythes of his Cows, ' and other Living Stock, the sum of 22 s. For the Tythes of his ' Garden and Orchard, 28 s. which amounted in the whole to the ' sum of 6 l. And the said Producent to make an End of the Difference, did then offer to take the sum of 3 l. 6 s. (and a Load ' of Wood, which the Producent had from the said *Sir Hugh*, and ' some other things to the value of 20 s.) in full for the said Dues, ' which at first was not comply'd with, but about two Months afterwards was Paid by the said *Mr. Whaples* to the Producent, *Process* p. 397.

Memorand. 3. That notwithstanding this Moderation of the said *J. Oswald*, and the considerable Abatement he made of his Just Debt for Peace sake, the said *Sir H. Everard* was so Exasperated against him, that he declar'd publicly he would drive him out of the Parish, and boasted, that if he could but turn him, the said *Oswald*, out, he did not care, for then he could remove any other when he pleas'd, as I have been Inform'd by several Persons who heard him:
But

But though this is a Truth none of the Witnesses durst own at their Examination, for fear of offending his Worship, yet it is plainly enough imply'd, though it be darkly express'd, That he did design to prosecute him in order to turn him out of the Parish, in the Answer of Mr. *John Goodeve* to *Interrog.* 11. where, after he hath given an Account of a difference about Tythes, he saith, ' That about nine Months ago, (*i. e.* about July, 1699.) he was in Company with Sir *Hugh*, at which time he told him the several Crimes laid to Mr. *Oswald's* Charge, and that if they were true, he would endeavour to get him out of the Parish. *Process* p. 245. For the sense of these Words, if they have any, must imply, That he would prosecute him, in order to turn him out of the Parish, because he could not know whether these things were true or no, until he had prosecuted him for them: But there needs not any particular Testimony to prove this, for all his Actions, with respect to the said J. *Oswald* after the aforesaid Difference, some of which shall be mention'd hereafter, are a plain Demonstration of this Design. And many of the Parishioners were Confederate with him in this Design, being offended with the said J. *Oswald* for doing that which he conceives to be his Duty, as may appear by the following particulars.

First, some were offended with him for informing the Church-Wardens of the Obligation of their Oaths to Present such of the Parish as did not Receive the Holy-Sacrament of the Lord's-Supper according to the Usage of the Church of *England* (which was done by the said J. *Oswald* in Obedience to the Commands of his Superiours) as appears by the following Depositions.

Mr. *Goodeve* to the sixth *Interrogatory*, Deposes, ' That he hath heard several of the Parishioners of *Much-Waltham* Express their Resentment of Mr. *Oswald*, for having about fourteen Years ago presented 60 or 80 of his Parishioners for not taking the Sacrament at *Easter*, which Resentment he hath heard several Parishioners express about twelve, and likewise about four Years ago; saying, He was unkind therein. *Process*, p. 245.

The Reverend Mr. *Thomas Cox* to the 4th Article of J. *Oswald's* 1st Allegation, Deposes, ' That he knows that at the time of Mr. *Oswald's* Institution and Induction to the Vicarige of *Much-Waltham*, part of the Parish of *Much-Waltham*, called *North-End*, did consist of several Dissenters from the Doctrine and Discipline of the Church of *England*, and believes there are several Persons in the said Parish, that do now Dissent from the same, who did and do now frequent Conventicles and Dissenting Meetings. And says, ' That

That the Right Reverend Father in God the Lord Bishop of *London*, did in the Month of *March* 1683, send Letters to all or most of the Clergy within the Deanry of *Chelmsford*, to Order them to put the Churchwardens of their Respective Parishes in mind of their Duty, and at the next Visitation of the Arch-Deacon, to Present all such Persons in their Respective Parishes, who refuse to come to their Parish-Church, and to Receive the Holy Sacrament; and the said Clergy to join in the said Presentments with the Churchwardens; and, as he believes and has heard, That *Mr. Oswald* and the Churchwardens of his Parish of *Much-Waltham*, did the same time Present about 80 Persons in his Parish, for not coming to their Parish-Church and Receiving the Holy Sacrament. And believes that the Producent [meaning the said *J. Oswald*] did thereby incur a great Odium and Ill-will among several of the Parishioners of his said Parish. *Process.* p. 379.

2. Some of the Parishioners of the said Parish of *Much-Waltham*, were Offended with the said *J. Oswald* for endeavouring by a Law-Suit to Recover the Just Rights and Dues belonging to his Vicarige, which he found to have been either lost, or very much impair'd, as appears by the following Deposition.

John Boosey, to the 5th Article of the foresaid Allegation, Deposes, That soon after *Mr. Oswald* came to the Vicarige of *Much-Waltham*, he did Sue some of the Parishioners for Tythes, and other Dues and Rights, which he thought to belong to him, as Vicar of *Much-Waltham*; And that a great part of the Parishioners of the said Parish, did joyn together in maintaining the Suit against *John Oswald*, which Suit caused a great deal of Discontent and Ill-will towards the said *John Oswald*. *Process.* p. 413.

To the same purpose the foresaid *Mr. Cox* Deposes, That upon the Account of this Suit, the said *John Oswald* was called by several of his Parishioners, a Contentious Man, and an Oppressor of the poor. *Process.* p. 379.

3. Some of the said Parishioners were Offended with the said *John Oswald*, for endeavouring to oblige them to Observe the Rule of the Church, as to the Baptism of their Children, as appears by the following Deposition.

M. James Bamford, to the 4th Article of the said Allegation, Deposes, That he did for some part of the Years 1695, 1696 and 1697, live in the Parish of *Much-Waltham* in *Essex*, in which time there were several persons Inhabiting in the said Parish that were Dissenters, and Disaffected to the Doctrine and Discipline of the Church of *England*, and did frequent Conventicles, and believes

lieves, the said Mr. Oswald hath Created to himself several Enemies amongst such Dissenting Inhabitants of the said Parish, by endeavouring to Oblige them to bring their Children to Church to be Christned. *Proceſs, p. 457.*

I forbear to mention other things of the same Nature, which I know to be certainly true, because there is not the like proof of them by the Oaths of Witnesses; But these Depositions are sufficient to show how a great Number of the Parishioners came to Combine with the said Sir Hugh in his Design of prosecuting the said John Oswald, and Driving him out of the Parish; and how the said John Oswald Incurr'd the Hatred and Ill-will of many of his Parishioners for doing his Duty to the Church, and observing the Rule of it, and Obeying the Orders of his Superiors. And therefore he might expect that his Superiors, as their Office oblig'd them, would assist and protect him as far as Justice would permit, and not suffer him to fall a Sacrifice to the Malice of his Enemies, who hate him for his Obedience to them and the Church. And to that purpose J. Oswald Address'd himself to the Right Reverend the Lord Bishop of London, in the following Letter, a Copy whereof he hath still by him.

My Lord,

I Shall not trouble your Lordship with any Answer to the Charge which I was given against me at Dunmow, because I hope you have received it before this time by another Hand; but I pray you to consider, That the Design is not so much against me, as against the Rights of the Church, to render not only our Profits, but also the Tenure of our Livings Precarious, which, for my part, I shall never yield to, whatever it has or may Cost me, and I hope your Lordship will never Countenance. For Sir Hugh Everard has not only refused to pay his Tythes, and Treated me most insolently for Demanding my Dues in a Civil Manner, but forbid others to pay them, and the Justices to grant a Legal Summons against those that owe me. And to finish his Sacrilegious Design, he now Declares openly, That I shall be Removed at Michaelmas; That he will not admit of any Curate in my Room, and that your Lordship has promised him to this Purpose. But as I have little Reason to believe any thing because he says it, so I have that Honour for your Lordship, that I ought not to believe this to be true, since you were pleased to grant me a Dispensation for Non-Residence, and to allow of Mr. Ker for my Curate. And as Men engaged in an ill Design do commonly proceed from Bad to Worse, so now he does boldly Attack your Lordship's Authority, for he told Mr. Ker, That you cannot Dispense with my Residence, nor allow me to put in a Curate, and like a Candid Gentleman, advised him to put in for the Living, to betray his Trust, and Supplant me; and now, like a Good Church Man, he joins

with the Fanaticks, who never want for Lyes and Slanders against an Honest Clergyman, who dares do his Duty, in these Times, to the Church and your Lordship. It is from them, I hear, a Petition is to be sent to your Lordship, with Sir H. Everard at the Head of them, according to the Promise, as he says, made to your Lordship, wherein, there is no doubt, I shall be sufficiently Blacken'd; but as I am Conscious to my self of my own Integrity in doing my Duty, so I shall never be Asham'd to be Reproach'd by such Men, who are Enemies to me because I am faithful to the Church; for as I can securely trust the Divine Providence as to the Issue, so I hope your Lordship will never deny your Protection in this Cause, to
 Much-Waltham,
 Your most Obedient and Faithful Servant,
 Sept. 18. 1698. *John Oswald.*

J. Oswald is very well Assur'd that this Letter was deliver'd to his Lordship, to which he never received any Answer, so far as he knows, but he very well remembers, that his Lordship was pleased to own some time after, That it was his Duty to Defend his Clergy in their just Rights. And how far Sir *Hugh* has Invaded the Rights of the Church, *J. Oswald* leaves to his Lordship, or any Impartial Judge who considers these Memorandums.

Memorand. 4. That in order to the Design of Driving the said *J. Oswald* out of the Parish, some of the Confederates were set on to Assault about Midnight the said *John Oswald's* Vicarige-House, shortly after the foresaid Difference between him and the said Sir *Hugh* happened, i. e. about the latter end of the year 1697, which they did so often for the space of a quarter of a year together, breaking his Glasse-Windows, throwing in Stones, and pulling down the Walls of his House, that his Servants being frighted, were forced to call in the Neighbours to their Assistance; whereupon they left his Service, and the said *J. Oswald* left his Vicarige-House, as appears by the following Depositions.

Christian Hammond, who was a Servant to the said *J. Oswald*, for the space of Two years and three quarters, to the 6th Article of the foresaid Allegation, Deposes, 'That about Two years and a half ago, (i. e. about October 1697) several Persons did Attack Mr. *Oswald's* House, and she saith, That one Night about the said time, 'this Deponent as she was going to Bed about 12 a Clock, and 'looking out of her Chamber-Window into Mr. *Oswald's* fore-yard, 'saw Two Men and a Woman stand in the said Yard under the Window, and this Deponent asked them what their Business was to 'stand there at that time of Night, and the said Persons slipt under a Plum-Tree to hide themselves, and thereupon this Deponent

' nent call'd to one Goodman *Fuller*, who liv'd over against Mr. *Oswald*, and he arose and open'd his Window, and asked what was the matter; and this Deponent desir'd him to come to her, telling him there were Rogues about the House; and thereupon, the said Goodman *Fuller* arose and came in Company with one Goodman *Abot*, and others, to this Deponent, and then they went and search'd for the said Persons, but they could not find them; and then the said Goodman *Abot* and the other Persons return'd Home, but the said Goodman *Fuller*, at this Deponent's Request, staid there till 4 of the Clock, and then return'd Home; and soon after he was gone, the said Persons, or Rogues, came again, and this Deponent opening a Window that look'd into the back-yard of the said *J. Oswald's* House, and seeing them there, said to them *Hey, Hey, What are you come again?* And one of them made Answer to this Deponent, and said, *Damn you for a Bitch, if I could come at you, I would still your Tongue.* And this Deponent was frighted thereat, and thereupon went and call'd to the said Goodman *Fuller*, telling him they were come again, and the said Goodman *Fuller* came to his Window, and told this Deponent it was almost Day, and he believed they would not come any more that Morning. And she said, That for a Quarter of a Year after, some Persons us'd to come almost every Night, and break the Windows, and pull down the Walls of the House, which did frighten this Deponent, so that she was forced several Nights to call to the Neighbours. And thereupon this Deponent left Mr. *Oswald's* Service, and he, the said Mr. *Oswald*, left his House. *Process*, p. 450.

That the said Assaults were made upon the Vicarage-House, is Confirm'd by the Depositions of the Neighbours who came to the Assistance of the said *Christian Hammond*.

John Fuller, among other things, Deposes, ' That the said *Christian Hammond* called out to him one Night about Midnight, and he arose and went to her, and she then shew'd him several Stones which she had taken up in the House, as if they had been thrown in at the Windows, and that after he went Home he was call'd up again by the said *Christian*, and that she call'd several other times, in Mr. *Oswald's* Absence, in the Night to this Deponent, to come to her, and that once near the Window he found the Footsteps of a Man in the Snow, and that another Night when Mr. *Oswald* was at Home, he was called over to his House, and the said Mr. *Oswald* that Night did Shoot off a Gun. *Process*, p. 424.

This last Particular the said *J. Oswald* knows to be true, and remembers very well, That on a *Saturday* a little after *Christmas*, in

1697, between 12 and 1 of the Clock at Night, he heard his Boy Cry out, *Thieves, Thieves, they are coming in at the Window*. Whereupon he went presently into the Boy's Chamber, and finding the Glafs-Windows broke, and several Stones thrown into the Room, he perceived there was no Danger of their coming into the House, who had given such Warning, and thereupon went to Bed again: But after the Neighbours who came over to the Vicarige were gone Home, he was told by *Christian Hammond* that they were come again about 2 or 3 a Clock on Sunday Morning, at which time it was very dark, whereupon he rose, and shot off at Random, a Fowling-Piece charg'd with small Shot, which made them Run away, as we understood by hearing the Noise of their Feet, and the Dogs Barking after them. It is very well known to *Christian Hammond*, and she is ready still to Attest, that at the same time, the Boy's Face was cut with a piece of Glafs, and that she was hit on the Back with a Stone, That the Rogues had remov'd a long Fork from the Stable, to the Pigeon-House being left open, which appears to be a Weapon they made use of, and which they might thrust into any Body, in Case they should be Attack'd; and that they broke down the Fences, and the Walls of the Out-Houses, and carry'd away some Casements of Glafs-Windows, belonging to the Hall and the Kitchen, however these Particulars come to be omitted in her Deposition.

Henry Abot, among other things, Deposes, ' That he heard Mrs. *Hammond* Cry out one Night, That Thieves were breaking into the House, and that *John Fuller* desired him to go with him to the Vicarige-House, which he did, and observ'd the Windows of the House to be broke, and some Stones lying in one of the Rooms above Stairs. *Procefs. p. 428.*

From this short and imperfect Account of the Midnight-Assaults made by these Villains, it appears, That they were set on by some People who had a mind to fright *J. Oswald's* Servants, render his Life uneasy, and so to drive him away from the Vicarige, which was subservient to the Design of Sir *H. Everard* to turn him out of his Living; That this Account of the barbarous Usage of the said *J. Oswald*, is well Attested by 3 Persons worthy of Credit, who knew the Matters Deposed to be True, and that there was no Trick us'd in this Case, as some gave out, who by Jestings upon this sad Disaster, gave just Cause of Suspicion that they favour'd this Design. And since it was such piece of Villany as had never been heard of before, during all the years the said *J. Oswald* had liv'd at his Vicarige, and was begun in a short time after the foresaid Difference between him and the said Sir *Hugh* happen'd; this was a
threwd

drawd Intimation upon what Occasion and for what Cause it was done, and that it was advised by some whose Interest it was to Remove the said *J. Oswald* out of the Parish, that they might the better carry on their other Designs against him in his Absence; and who improv'd this Opportunity to put him upon great Expences for making good the Dilapidations made by this manag'd Mob, as appears by the Presentments made in 1698 and 1699, (the Copies whereof are hereafter subjoyn'd) whereupon he was admonish'd by Dr. *Newton*, the Chancellor of *London*, to Repair his House, the Out-Houses, and Fences, as may appear by the Minutes taken in the Consistory-Court, Aug. 2d. 1700: which necessary Repairs were Certify'd to be done, by the Reverend Mr. *Bat*, and Mr. *Cox* (one or or both of them) appointed Commissioners to take a View of the Dilapidations, and the Repairs, in a Certificate given to Dr. *Newton* about January 1700,

Memorand. 5. That after the said *J. Oswald* was driven away from his Vicarige, and oblig'd to put in a Curate, (which he did at Michaelmas 1698, with the Leave of my Lord Bishop of *London*, and allow'd him 30 out of 60 l. per Annum) the said Sir *Hugh Everard* Consulted with his Complices how to turn him out of his Living. And for this end, having search'd all over the Parish and the County, to find out Witnesses who could Testify any thing against him, within the Compass of 14 Years past, They first drew up a Petition against him, which was Presented to the Right Reverend the Lord Bishop of *London*, about August 1699, Charging the said *J. Oswald* with gross Immoralities, and other heinous Misdemeanours, and praying the said Bishop to remove him from the said Parish. Sir *Hugh Everard*, *John Sorrel*, and *George Mapes Jun.* with some others, went about the Parish to get Hands to it, and by false Pretences and other unworthy Means, drew in many of the Parishioners to Subscribe it, tho' they Declar'd at the same time, That they knew no Ill by the said *John Oswald*, or, That they never observ'd him to be otherwise than a Person of a sober Life; as appears by the Depositions of the following Witnesses to the 1st Allegation given in by the said *J. Oswald*, being Examin'd on the 11th or 12th of April 1700.

William Rust a Farmer, to the 2d Article of the said Allegation, Deposes, That he hath known the Producent, *John Oswald*, ever since he came to live in the said Parish, (viz. of Much-Waltham) and that for the time he hath known him, he never knew or observ'd him to be otherwise than a Person of a sober Life and Conversation. And to the 6th Article he Deposes, That 6 or 9 Months ago, Sir H. Everard and Geo. Mapes, Church-

Church-Wardens of the Parish of Much Waltham, came to the Deponent to his House, and asked this Deponent to set his Hand to a Petition to the Bishop of London for Continuing Mr. Ker to be Curate of the said Parish, and for Turning Mr. Oswald out of the said Parish for Drunkenness and Lying with other Mens Wives; which this Deponent did set his Hand to, and at the same time did Declare to the said Sir Hugh and George Mapes, That he knew no Ill of Mr. Oswald. Process, p. 420.

Here are two false Pretences made use of by Sir Hugh Everard and Geo. Mapes, to induce this Farmer to set his Hand to the petition against J. Oswald. 1st, That it was for Continuing Mr. Ker to be Curate, of which there is not a word in the petition for Removing J. Oswald, which is the only petition mention'd in the said 6th Article, to which this Witness is Examin'd, and to which he set his Hand by the perswasion of Sir Hugh Everard, contrary to his own Judgment, Declar'd at the same time, viz. *That he knew no Ill of Mr. Oswald.* 2^d, That it was for Turning J. Oswald out for Lying with other Mens Wives, whereas the only Woman, with whom he was Charg'd to have Committed this Crime, Deposes, *That she hath seriously Declar'd to Mr. Kerr and Sir Hugh, and Mr. Sorrel, That Mr. Oswald never had the Carnal Knowledge of her Body.* Process, p. 139.

Henry Bowles Labourer, to the foresaid 6th Article, Deposes, *That about a Year or two ago, one John Sorrel came to his House in his absence, and brought a Petition to him to set his Hand to, the Contents of which Petition, was to turn Mr. Oswald out of the Parish for Demanding more Tythes of the Parishioners than was us'd to be Paid, as this Deponent was inform'd; And this Deponent's Wife set her Mark for this Deponent, as she told him afterwards, and this Deponent did allow of the same.* process, p. 409.

Here is a new way of Signing a petition with a person's Name without his Consent first had, which appears to be very unfair; and the pretence here made use of, however suited to his Indigent Condition, is as false as the former, for neither this nor any other particular Reason is contain'd in the petition, nor is it mention'd in the Articles, which contain the particulars of the Charge against the said J. Oswald; And besides, if it were true, it is no good Reason for turning a Clergyman out of his Living, as was desir'd in this petition, for he may Demand more Tythes than were us'd to be paid, and yet Demand no more than his Due.

Jonathan Lilly a Farmer, to the 2^d Article of the said Allegation, Deposes, *That he has known the Producent J. Oswald, ever since this Deponent came to live in the Parish of Much-Waltham, and that*
within

within the said time he hath been several times in Company with Mr Oswald at Christnings and other Places, and never observ'd him to be otherwise than a Person of a sober Life and Conversation. And to the 6th Article, he Deposes, That about Midsummer last, Sir H. Everard came to this Deponent, and shew'd him a Writing, which he told this Deponent, was a Petition to the Bishop of London, for the Removing Mr. Oswald, because he was Contentious in his Parish, and that most part of the Parishioners had set their Hands thereto, and desired the Deponent likewise to set his Name to it; and the said Sir Hugh, at this Deponent's Request, did set his Name thereto, because he this Deponent cannot Write. Process, p. 404.

Here is another sham-pretence made use of to Induce this Farmer (who never had any Contention with J. Oswald) to Sign the said Petition, which is neither mention'd in the Petition nor the Articles against the said J. Oswald, by which it would seem, that Sir Hugh being secure against any Detection by a person that could not Write, had little Regard to the Truth of what he said, so as he could gain his End. And besides, a Clergyman may be sometimes called and accounted a Contentious Man for endeavouring to Maintain or Recover the Rights of the Church by Legal Means, which, I hope, is no sufficient Reason for Depriving him of his Living. It seems that this Farmer was at first something unwilling to sign it, because he is told, That most of the parishioners had set their Hands to it, which was the strong Argument made use of to all or most of the parishioners, to perswade them to Sign it, and appears in this Case to be a sham-pretence, since he was the 6th that Sign'd it, as appears by a Copy of the said Petition in the Registry of the Delegates.

Roger Knightbridge Sen' an Antient Inhabitant and Owner in the parish, to the 2d Article of the said Allegation, Deposes, That he hath known J. Oswald ever since he came to be Vicar of Much-Waltham, and that he is a sober Person and of a pious Life, for ought he knows. And to the 6th Article, he Deposes, That he did set his Hand to a Petition about a Year ago, for Continuing Mr. Ker to be Curate in the Parish of Much-Waltham. process, p. 401.

This Witness's Name is Subscrib'd to the petition for Removing J. Oswald from the parish, upon the Account of his gross Immoralities, though he Swears he believes him to be a sober and pious Person; and it seems this sham-pretence here mention'd, was the only perswasive us'd to him to Subscribe it, as it was to many other Subscribers, who have assured J. Oswald, they were told by Sir Hugh, with his usual Sincerity, That there was nothing in the petition against

against Mr. Oswald, and that was only for Continuing Mr. Ker to be Curate, and that upon this Account they Sign'd the Petition.

John Boosey, to the 6th Article of the said Allegation, Deposes, *That about 3 quarters of a Year ago, there was a Petition drawn up to the Lord Bishop of London, against John Oswald for his Ill Life, to Remove him from the Parish of Much-Waltham, which Petition was Sign'd by him this Deponent, and several Parishioners of the said Parish. And yet in Answer to the 4th Interrogatory, ministred by the said Sir Hugh Everard, he saith, That he himself never knew any Ill of the said John Oswald. Process, p. 413. Which Answers amount to this, That he Sign'd a Petition for Depriving Mr. Oswald of his Freehold for his Ill Life, tho' he never knew any Ill by him.*

I shall only observe as to this Witness, *That this part of his Answer to the 4th Inter. he knew no Ill of J. Oswald, was Dissembled or Deny'd, in his Deposition to the 2d Article of the said Allegation (which is particularly fram'd concerning the Life and Conversation of the said J. Oswald) to which, he only says, That he hath known John Oswald ever since he came to be Vicar of Much-Waltham, which he believes to be about 16 or 17 Years, & aliter nescit deponere. Process. p. 413. And yet it appears by the said Answer to the 4th Inter. viz. That he never knew any Ill by him, That he could have Depos'd, That, for ought he knows, the said John Oswald is a Person of a strict, pious, virtuous and sober Life, as is alledg'd in the said 2d Article, which Omission must be either the Fault of the foresaid Witness, or of Mr. Edward Alexander the Scribe, and whosoever be in the fault, it is certainly contrary to their Oath.*

Roger Knightbridge, Jun^r a Farmer in the said Parish, Deposes to the 2d Article of the said Allegation, *That he hath known the Producent John Oswald, ever since he came to be Vicar of Much-Waltham, and that he hath been several times in Company with him at Christnings, and that he never saw nor observ'd the said John Oswald to be otherwise than a Person of a sober Life. And yet he also Subscrib'd the Petition, as appears from a Copy of the said petition which is kept in the Registry of the Court of Delegates, which Subscription seems to be deny'd in his Deposition to the 6th Article of the said Allegation, to which, he only says, That he has heard there was about a Year ago, a Contest between Mr. Oswald and Sir Hugh Everard about Tythes, Et aliter nescit deponere, adds the Scribe. Process, p. 430. i. e. He knew nothing of the said Petition, and that Sir Hugh, and others, went about the Parish to get Hands to it, perswading many to Subscribe it; For if he knew nothing of it, then he did not set his Hand to it. Now it appears to J. Oswald, very probable that the Witness being, as he believes,*

believes an honest Man, and having no Interest to serve in this Case, would not Deny upon Oath his Subscription if he had Subscrib'd it. But tho' one would not think, that the Scribe should in this Case Falsify the Words of the Witness, when he lies open to an easy Detection by inspecting the Names of the Subscribers: Yet since the Writing of this Memorand. J. O. is very well assur'd by a Letter from the Country, That this Witness Declares, he did set his Hand to the *Petition for Removing J. O. out of the Parish*, and that he own'd it at the time of his Examination, and therefore the Denial of this Subscription, in the Phrase aforementioned, *Et aliter nescit Deponere*, is a Falsification which must be Charg'd upon the Scribe, who will plainly appear to be guilty of such-like Practices in Memorand. 8th. And the said J. O. is farther Inform'd, since the Printing of the last Sheet, That *Roger Knightbridge Sen'* does constantly Aver, and, as J. O. believes, is ready to make Oath of it, That he did never set his Hand to any *Petition concerning the Removal of J. O. from his Living*; which Account gives such a Light into the Sense of his Deposition, as clears the Witness from all Blame, and may Convince any Man, That the Denial must be implied in the Phrase, *Et aliter nescit Deponere*, at the close of his Deposition to the foresaid 6th Article, tho' the Scribe, to blind the Matter, sets down in his Answer, *That he did set his Hand to a Petition for continuing Mr. Ker to be Curate*, as if that had been the same Petition to which the Witness was Examined, (and so it is supposed to be in the Deposition of *William Rust*, aforementioned) tho' it is quite different, and is not at all mention'd in the said 6th Article, and consequently this Answer is *Extra Articulum*, which as the Scribe very well knows, ought not to have been set down. And from hence J. O. observes, That some of the Promoters of this Petition against J. O. did not only draw in many to Sign it, (especially of those that could not Write) upon the sham-Pretence, That it was only for Continuing Mr. Ker to be Curate, but they also made bold to Counterfeit the Names of several Persons without their Leave and Consent, and Subscribe them to the Petition against J. O. by which base means, the Number of Subscribers was mightily increas'd.

These 6 are the only Witnesses which J. Oswald Examined about this Petition, and by their Depositions it appears, by what false Pretences, and unworthy Means, the greatest part of them were drawn in to Subscribe it, and how far they were Influenced by Sir *Hugh Everard*, and others, to do this, tho' it was contrary to their own Mind and Judgment: Which may be further Confirm'd by the Deposition of one of Sir *Hugh's* own Witnesses, who said at his Examination

amination, That he had nothing to say against Mr. Oswald of his own knowledge, and that he knew no Ill by him himself, but look'd upon him as a good Teacher, " [or to that purpose] And being asked by some of the Commissioners, " Why, if he knew nothing of himself against his Minister, he would offer to Sign a Petition against him to my Lord the Bishop, wherein he was Charg'd with many Scandalous Vices and Immoralities? " I remember very well the said Deponent made this Answer, " (says the Reverend Mr. Sturgis, one of the Commissioners) Viz. That he did it, because he was loth to Disoblige Sir Hugh Everard, who was a good Man, and always ready to do any Neighbour a Kindness or Good Turn, (' or to that Effect.) This Answer of his, Mr. Register refused to write down, tho' he was earnestly requir'd to do so by the Commissioners, and particularly, I remember, by Mr. Reeve, (who was one of the Commissioners appointed on the part of Sir Hugh Everard) This is attested in a Certificate given in by the Reverend Mr. Samuel Sturgis, a Copy whereof is hereafter Subjoyn'd. From these Instances we may Judge of others, and J. Oswald Challenges the Promoter, of all his numerous Subscribers (which are above 160) to Name two, who can say and swear, of their own Knowledge, That J. Oswald can be justly Charg'd with Gross Immoralities and many other heinous Misdemeanours, as the Petition expresses it.

However this Petition was Subscribed by many Dissenters, who were Dissatisfied with John Oswald upon the Account of the Presentments made in 1684, and 1685, and for his constant Observance of the Rule of the Church in Christenings, and by several who were Offended with him for endeavouring to Recover and Maintain the Rights of his Vicarige (as is prov'd above) who were willing enough to remove him from his Vicarige, tho' they knew no Ill by him. But there were many others, both Farmers and Day-Labourers, who had no such Design, but were drawn in to Subscribe by that false Pretence, ' That this Petition was only for continuing Mr. Ker to be Curate, and that there was nothing in it against Mr. Oswald, or were Influenced by other false Pretences, or Over-aw'd by Sir Hugh and his Complices (whom they depended upon, and durst not Disoblige) to Sign it, tho' it was contrary to their own Conscience and Judgment, who believ'd J. Oswald not to be Guilty of these Gross Immoralities Charg'd upon him in this Petition. And since he that Certifies against another that he is Guilty of heinous Crimes, in order to Deprive him of his Freehold, and Subscribes a Petition to his Bishop for that end, ought to be as certain of the Truth of what he Certifies, as if he were to make Oath of it, I leave it to the Judgment of Understanding and Impartial Men, whether this Tampering

pering with the Parishioners to draw them in to Subscribe, does not carry a face of Malice, and is not something a-kin to Subornation of a false Testimony, or what other Name it deserves; or whether it be not a Villany that wants a Name, in the Promoter or his Agents to perswade or over-aw great Multitudes of poor ignorant People to Subscribe, or Forge their Names, to such a black Charge against a Clergyman, which they did not know or believe to be true, on purpose to Ruin his Reputation and Deprive him of his Freehold, or, in the Words of the Petition, to obtain a *Total Removal of J. O. from the Parish.*

And here I cannot but observe the vast difference between Sir Hugh's Sentiments of *J. Oswald* in 1696 and 1698, for tho' in 1696 the same scandalous Stories were reported of *J. Oswald*, which are now alledg'd in the Articles; yet Then, in Sir Hugh's Opinion, *He was a worthy good Man, and deserv'd the Respect of his Brethren*, as appears from the Deposition of the Reverend Mr. *Tho. Dunbar*, mention'd in *Memorandum* 1st. to whom he spoke these words, or words to that effect: But in 1698 Sir Hugh is of a quite contrary Opinion, tho' no new Matter of Scandal interven'd, and Certifies under his Hand in this Petition, *That J. Oswald is Guilty of Gross Immoralities and many other heinous Misdemeanours.* In 1696, *J. Oswald's Friends* in the Parish were increas'd, and Sir Hugh himself almost long'd to see him, as Sir Hugh expresses himself in his Letter, printed in *Memorand.* 1st. But in 1698 *J. Oswald's Friends* are not only decreas'd, but his assured Friend Sir Hugh, has drawn in many of them, by the unworthy means aforesaid, to Sign a Petition for the *Total Removal of him out of the Parish.* And Sir Hugh's good Lady, who in the year 1696, was a Zealous Advocate to Vindicate *J. O.* from the scandalous Stories Charg'd upon him in the Articles, and wonder'd how any Body could believe them; as *J. Oswald* has been assured by some Ear-Witnesses; In 1698 became a virulent Promoter of them by her everlasting Clack, and has continued ever since the Mother of Mischiefe And now she is so far from desiring to see *J. Oswald*, or prefer him to an Honourable Family, as she expresses her self in her kind Letters, that she has declared her self implacable in her Malice against him, and that she will never forgive him. From whence this change of her Mind and Affection proceeds, whether from Covetousness, Pride, or some other Lust, she best knows, and time perhaps may discover, tho' she now lies hid behind the Curtain, and by secret Springs, in her sly way, sets all the Puppets in motion.

This Petition was presented by Sir *Hugh*, and some of the Parishioners, to my Lord of *London*, about *August* 1699, who deny'd their Request upon very good Reason, since it was not a thing in his Power to Remove a Clergyman from his Living upon such a general unprov'd Accusation. And of this they could not be ignorant when they Presented it, and yet they would do it, because it serv'd as a pretence to cover the Malice of their design'd Prosecution, which they would seem willing to have avoided by this Petition, if it had been Granted; however it serv'd them for several other good purposes, as being a means to draw the Parishioners into a Combination against *J. Oswald*, and it was afterwards made use of as a great Argument to perswade those who had Sign'd it, to Subscribe the Orders of Vestry for raising Money to carry on the Suit against the said *J. Oswald*, (the Copies whereof are hereafter subjoyn'd) because they had already given their Hands against him, and so were obliged to prosecute him, as several of them, whom he could name, have assur'd him.

Memorand. 6. That the said Petition proving ineffectual to get their Ends of *J. Oswald*, and turn him out of his Living, they proceeded farther to draw up Articles against him, Charging him with the Crimes of Adultery, Fornication, (tho' neither of these is Deposed by any of the Witnesses) Incontinency, Drunkenness, and several Neglects of his Ministerial Office, as Vicar of the Parish of *Much-Waltham*; which Crimes are Alledg'd to be Committed in the Years 1689, 1691, 1692, 1693, 1694, 1695, 1696, 1697 and 1698, mention'd in the Articles. Now because I do not intend to enter into the particulars of this Charge, (which may be prov'd to be as false as it is foul) I shall at present only observe in general, That most part of the heinous Offences Alledg'd against *J. Oswald*, are pretended to be Committed before the Year 1695, or in that year, which is such a distance of Time, as makes it morally Impossible many times to Disprove the Allegations from the Circumstances of *Time, Place, Persons, &c.* tho' they were really False, and such as might have been easily Disprov'd, when these Circumstances were fresh in Memory. And against the Truth of these Articles, I shall at present only oppose the Copies of some Authentical Papers Exhibited by *J. Oswald* in this Cause; whereof the first is, The Copy of a Certificate on the behalf of *John Oswald*, Subscribed by 20 of the Reverend Clergy of *Essex*,

WE whose Names are hereunto Subscrib'd, do hereby Certify, That we have had a particular Acquaintance, with Mr *John Oswald*, Vicar of *Much-waltham*, and our Neighbour, for several Years past, and have in all our Conversation with him, found him a Sober, Grave, Modest and Religious Person, and not Guilty, so far as we ever did know, of any Vices or Irregularities unbecoming his profession. Witness our Hands,

<i>Robert Corey</i> , D. D.	<i>Thomas Dunbar</i> , Rector of <i>Faulkborne</i> .	<i>Christopher Wragge</i> , Rector of <i>Wickham Episcopi</i> .
<i>Thomas Haughton</i> , D.D. and Vicar of <i>Writtle</i> .	<i>Michael Batt</i> , Rector of <i>Cheimsford</i> .	<i>Thomas Cox</i> , Vicar of <i>Bromesfield</i> .
<i>William Brampton</i> , Rector of <i>Woodhamwater</i> .	<i>John Ouseley</i> , Rector of <i>Springfield</i> .	<i>Philip Brown</i> , Rector of <i>Sandon</i> .
<i>Daniel Horsmanden</i> , Rector of <i>Purleigh</i> .	<i>George Noon</i> , Rector of <i>Widford</i> .	<i>Henry Pugh</i> , Vicar of <i>Baddow Magna</i> .
<i>Thomas Woodroffe</i> , Vicar of <i>Felsted</i> .	<i>Robert Rogers</i> , Rector of <i>Braxtead</i> .	<i>Edmund Kidbey</i> Rector of <i>West Hammingfield</i> .
<i>Walter Adamson</i> , Rector of <i>Much-Leighs</i> .	<i>Joshua Blower</i> , Rector of <i>Fairstead</i> .	<i>Job Marple</i> , Vicar of <i>Boreham</i> .
<i>Jonas Warley</i> , Vicar of <i>Witham</i> .	<i>William Pyke</i> , Rector of <i>Black-Notley</i> .	

This Certificate is sufficient to shew, That *J. Oswald* is a person of a fair Reputation among those Gentlemen of good Credit, who were very well Acquainted and most Conversant with him: and the Truth of this Certificate was Confirm'd by the Oaths of eight of these Reverend Clergy-Men, viz. Dr. *Robert Corey*, Arch-Deacon of *Middlesex*, Mr. *Philip Brown*, Mr. *Michael Batt*, Mr. *Thomas Dunbar*, Mr. *Henry Pugh*, Mr. *John Ouseley*, Mr. *Thomas Cox*, and Mr. *Job Marple*, who being Examin'd in April 1700, upon the 1st Allegation given in by *J. Oswald*, did Depose, That they had known *John Oswald* for several Tears, some of them for 14 Tears, and that they had been several times in his Company, and never observ'd him to be otherwise than a Sober, Grave, Modest and Religious Person, and that they never knew him Guilty of any Vices or Irregularities unbecoming his Profession; That this Certificate was Subscribed with their own proper Hand-writing, and that they knew the Hands of those Clergy-Men who were not present, and did believe their Names to be Subscribed to the said Certificate with their own proper Hand-writing. Their Depositions may be seen in the Process, beginning at pag. 363.

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This Testimony of so many Reverend Clergy-Men of known Worth and undoubted Credit, is more than sufficient to Outweigh the Numerous Subscribers to the Petition mention'd in the last *Memorand.* and is little less than a Demonstration, that *J. Oswald* is not a Person addicted to Excessive Drinking, as he is falsely Accus'd in the foresaid Articles; which is also Confirm'd by the Oaths of all the Farmers and the other Witnesses produced against *J. Oswald*, who are Examined to this part of the Articles; for all of them Swear that they never knew or observ'd *J. Oswald* to be Addicted to Excessive Drinking.

In the next place, I shall here produce and offer as a strong Prejudice against the Truth of the said Articles, the Copies of the *Presentments* made by the Churchwardens of *Much-Waltham*, at the Reverend Arch-Deacon's Visitation in the several Years 1691, 1694, 1695, 1696, 1697, 1698, mention'd in the said Articles, together with the Copy of a Certificate from Mr. *John Knightbridge*, Register to the said Arch-Deacon's Courts, concerning the *Presentments* made by the Churchwardens of the said Parish, in the Years 1689, 1692 and 1693, mention'd likewise in the said Articles, in which Years the pretended Crimes and Offences of *J. Oswald* are Alledg'd to be Committed, and commonly Reported in the said Parish.

Ex Regist. Curiae Archidiac. *Essex* extract.

April. 21. 1691.

I Present Ezekiel Miers, a pretended School-Master, who Teaches in our Parish without a Licence.

Item, The Fences of the Church-Tard have been well Repair'd, and the Church is in good Repair, except a little Defect in the Ceiling, which shall be mended.

Item, I Present Philippa Blatch, for having lately brought forth a Bastard-Child, and Philip Sayer for being the suppos'd Father of it.

Subscrib'd, William Marryon Churchwarden of Much-Waltham.
Concordat cum Originali.

Johannes Knightbridge Registrarius Assumptus

A Bill of Presentment made and exhibited by the Churchwarden of the Parish aforesaid, at a Visitation held at Ingatestone, October 12. 1691.

Concerning Churches, Chappels, &c. Omnia bene.

Concerning Ministers, Omnia bene.

Concerning Parishioners, Omnia bene. Saving I Present Joseph Dowset of Much-waltham, Husbandman, for being the Reputed Father of a Bastard-Child Begot on the Body of Jane Bird, whom I likewise Present.

The Mark ✕ of William Marryon Churchwarden.
Concordat cum Originali.

Johannes Knightbridge Registrar. Assumptus.

A Bill of Presentment made and exhibited by the Churchwarden of the Parish aforesaid [at a Visitation] held for the Reverend the Arch-Deacon of Essex, at Ingatestone, October the 10th 1694.

Concerning Churches, Chappels, with the Ornaments and Furniture thereto belonging, Omnia bene.

Concerning Ministers, Omnia bene.

Concerning Parishioners, Omnia bene. Saving I Present Elizabeth Chalk of our Parish, Spinster, for having a Bastard-Child, and I Present John Evans of Felsted, for being the Reputed Father of the said Child.

Concerning School-Masters, Schools, Physicians, and Surgeons, and Midwives, Omnia bene. Thomas Sorrel Churchwarden.

Concordat cum Originali. Johan. Knightbridge Registrar. Assumptus.

Waltham-Magna. A Bill of Presentment made and exhibited by the Churchwardens of the Parish aforesaid, at a Visitation held for the Reverend Arch-Deacon of Essex at Brentwood, April 2d. 1695.

Concerning Churches, Chappels, with the Ornaments and Furniture thereto belonging, Omnia bene.

Concerning Ministers, Omnia bene.

Concerning School-Masters, Schools, Physicians, Surgeons, Midwives, Omnia bene.

Thomas Sorrel.

Samuel Archer.

Waltham-Magna. A Bill of Presentment, &c. December the 12th 1695.

Concerning Churches, Chappels, with the Ornaments and Furniture thereto belonging, Omnia bene.

Concerning Ministers, Omnia bene.

Concerning Parishioners, Omnia bene.

Concerning School-Masters, Schools, Physicians, Surgeons, Midwives, Omnia bene.

Samuel Archer Churchwarden.

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Waltham-Magna. A Bill of Presentment made, &c. April 22d. 1696.

Concerning Churches, &c. Omnia bene.

Concerning Ministers, Omnia bene.

Concerning Parishioners, Omnia bene.

Concerning School-Masters, &c. Omnia bene. Saving we Present
Evans, for Teaching School without Licence.

Samuel Archer.

Nathaniel Naylor.

Concordat cum Originali. Johan. Knightbridge Registrar. Assumptus.

Waltham-Magna. A Bill of Presentment made and exhibited by the
Churchwardens of the Parish aforesaid, at the
Office at Chelmsford, on the 7th of May 1697.

Concerning Churches, Chappels, with the Ornaments and Furniture
thereto belonging, Omnia bene.

Concerning Ministers, Omnia bene.

Concerning Parishioners, we Present Richard Yeldam, now, or late of
Waltham aforesaid, Teoman, for not paying to the Churchwarden's Rate
the Sum of 6s. and 9d.

Concerning School-Masters, Schools, Physicians, Surgeons and Mid-
wives, Omnia bene.

Nathaniel Naylor.

John Sorrel.

Waltham-Magna. A Bill of Presentment made and exhibited by the
Churchwardens of the Parish aforesaid, at a Visita-
tion held at Brentwood, May the 5th 1698.

Concerning Churches, &c. The Vicarage-House is out of Repair, I
Present Mr. Oswald the Vicar for not Repairing on't.

Concerning Ministers, Omnia bene.

Concerning Parishioners, Omnia bene.

Concerning School-Masters, Omnia bene.

Subscrib'd,	}	Sir Hugh Everard, Gard.	}	John Sorrel, Church- Warden.
		Geo. Mapes, Jun' Elect.		

Waltham-Magna. [To these is subjoyn'd the Copy of] A Bill of
Presentment made and exhibited by the Church-
warden of the Parish aforesaid, at a Visitation
held at Ingatestone on the 9th Day of October,
1699.

Concerning Churches, Omnia bene.

Concerning Ministers, I Present Mr. John Oswald for not Re-
pairing

pairing the *Vicarige-House*, and the Fence of the *Vicarige-House*, to be out of Repair in the *Mud-Wall*.

Concerning *Parishioners*, *Omnia bene*.

Concerning *School-Masters*, *Schools*, &c. *Omnia bene*.

Subscrib'd, *George Mapes*, *Churchwarden*.

Johannes Knightbridge Registrar. Assumptus.

[The Copy of a Certificate about the Churchwarden's Presentments for the Years 1689, 1692, and 1693, sent from the said Mr. John Knightbridge.]

I Do Certify, That *John Goodeve* and *Robert Glascock* were Churchwardens for the *Parish* of *Much-waltham* in the County of *Essex*, for the year 1689: *John Boosey* and *John Skinner*, were Churchwardens for the said *Parish* for 1692: *John Skinner* and *Thomas Sorrel* were Churchwardens for the said *Parish*, for 1693. And that in the several Years abovemention'd, there was nothing Presented by the said Churchwardens, but *Omnia bene*.

John Knightbridge.

The Copies of the aforefaid Presentments made by the Churchwardens of *Much-Waltham*, being Extracted out of the Registry, Written and Subscrib'd by the proper Hand-writing of the said Mr. *John Knightbridge*, together with a Copy of the forefaid Certificate Written and Subscrib'd by the said Mr. *Knightbridge*, were exhibited into the Court of *Arches*, October 23, 1700. As appears by the Minutes of that Session.

From the said Presentments made in the Years 1691, 1694, 1695, 1696, 1697, and 1698, it appears that *J. Oswald* was not presented for any Crime, Misdemeanour or Immorality in these Years, (saying for not Repairing his *Vicarige-House* in the year 1698) for the presentments in all these Years have these express Words, Concerning *Ministers*, *Omnia bene*. And from the Certificate, as to the other Years mention'd in the said Articles, viz. 1689, 1692, and 1693, it appears that nothing was presented in them but *Omnia bene*.

These Presentments *J. Oswald* conceives to be a strong prejudice against all the pretended Crimes and Offences alledg'd in the said Articles, and pretended to be Committed in the said years, and to have been commonly Reported in the said parish; for 'tis certain, the Churchwardens were bound by the Canons, and by their Oaths, quickly after they heard the publi k Fame of these Crimes and Offences, to present them at the Arch-Deacon's Visitation

fitation; and they could not be ignorant of their Duty in this Case, since they presented other Crimes and Offences, upon common Report; as *Joseph Dowset* and *John Evans*, for being Reputed Fathers of Bastard Children, as appears from the presentments for the years 1691 and 1694; and one *Miers*, and *Evans* for Teaching School without a Licence, as appears from the presentments for the years 1691 and 1696. It cannot therefore with any colour of Reason be presum'd, that so many Churchwardens for several years should incur the Danger of Perjury, by a wilful neglect of presenting such pretended Crimes in their Vicar, as were publickly Complain'd of, and gave great Offence, as is alledg'd in the said Articles; especially if it be consider'd, that some of these Churchwardens were Dissatisfied with *J. Oswald* upon some or other of the Accounts mention'd in the 3d Memorand. preceding, as particularly *John Skinner*, Churchwarden for 1693, and *Nathaniel Naylor*, Churchwarden for 1696, who were offended with *J. Oswald* upon the account of their being presented for not Receiving the Holy Communion, (as appears from the Copies of the said presentments made in 1684, *Process*, pag. 564;) and thereupon left their parish-Church, and very seldom or never came to it; and therefore may be suppos'd forward enough to present the said *J. O.* if they had heard of such publick Complaints against him as oblig'd them in Duty to do it. But since there were no such presentments made by any of the said Churchwardens in any of the said years, for any of the Crimes alledg'd in the said Articles against *J. Oswald*, tho' they were oblig'd by their Oath to do it, and some of them were very inclinable to present him from their particular Piques against him, if it were any ways in their power: This is a just Prejudice against the common Fame and Report of the said pretended Crimes, which is Objected in the 1st 10, the 11th and 15th of the said Articles, for if any such Fame had been, it must have been judg'd a sufficient ground for presenting the said *J. O.* as they did others upon the like common Report; and it is a Convincing Argument that either they did not hear, or did not believe the Reports of the said pretended Crimes, but look'd upon them as False, Ridiculous, or Absurd, since they did not present *J. O.* for them, but on the contrary their Presentments in all the said years, were either in these express Words, *Concerning Ministers, Omnia bene*; or in general as to all presentable Matters, *Omnia bene*, which they could not have done with a good Conscience, had they heard the said Reports, and believed them to be true; and it is not Credible that so many

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Persons should concur for several years in making such Presentments as they did not believe to be true, contrary to the Obligation of their Oaths.

And this Argument holds good as to all the Crimes and Offences pretended, in the Articles, to have been Committed in the Years 1689, 1691, 1692, 1693, 1694, and 1695, That either the Churchwardens for these Years had not heard the common Fame of the said Crimes and Offences which is Alledg'd in the said Articles, or else they did not believe it to be true, but look'd upon it to be false and groundless, as being spread by such Persons whom they knew to be of ill Fame, poor and beggerly, or such as were some way concern'd in point of Interest to Slander J. O. (as indeed they were) for if they had heard these Reports, and believ'd them to be true, 'tis incredible but some of them would have Presented J. Oswald for all, or some of them, at some time or other, before the Year 1698; I say before 1698, because after the Difference broke out between Sir *Hugh* and J. Oswald in 1697, the Case appears to be strangely alter'd; for then it seems all the Lyes and Slanders which for so many years had been slighted by the Churchwardens, were Transform'd by the power of Avarice, Pride, and Malice into real Truths, and the Churchwardens in the Year 1698 pretended to believe them, and therefore were indispensably oblig'd by their Oaths to Present J. O. for them.

And yet we find a Presentment made May the 5th 1698, and Subscrib'd by *John Sorrel* Churchwarden, and Sir *Hugh Everard* the Promoter, and *Geo. Mapes Jun'* as *Gardian. Elect.* which has these Words, *Concerning Ministers, Omnia bene*, at which time they could not be ignorant of the Reports spread abroad against J. Oswald for several Crimes, which they pretended to believe by framing them into Articles, and Subscribing a Petition to Remove J. Oswald for the said Crimes; and they could not but know that it was not less the Duty of a Churchwarden to present him for these pretended Crimes, than for not Repairing his Vicarage-House, as both *John Sorrel* and *Geo. Mapes* did, and therefore *John Sorrel* being a Sworn Churchwarden at the time of the said Presentments, J. Oswald cannot see how he can be excus'd from being Foresworn for giving in a false Presentment upon his Oath, and for Acting contrary to the Obligation of it, in not Presenting J. Oswald for the said Crimes, the pretended Report whereof he had heard, and pretended to believe to be true; Neither can Sir *Hugh Everard* and *Geo. Mapes* be excus'd from Disingenuity and Prevarication, in Subscribing a Presentment which they pretended to believe in their Conscience to be false; muchless can I

See how Sir *Hugh* and *Geo. Mapes Jun'* can be excus'd from being Forsworn, for not presenting *J. O.* for the said Crimes in the year 1699, when they were oblig'd to make Presentments upon Oath, for Sir *H. E.* being Sworn a Churchwarden for the year 1698 must make a presentment about Easter 1699, and tho' *J. O.* hath not receiv'd a Copy of it with the rest, yet he is sure that he was not presented in it for any Crimes or Offences, because he never heard of them; and it appears from the Copy of the presentment made by *Geo. Mapes*, October the 9th 1699, who was Sworn Churchwarden for that year, That *J. O.* was not then presented for any Crimes or Offences, (saving only for not Repairing his House and Fences.) 'Tis certain they could not pretend Ignorance of them, nor any Distrust of the Reports about the said Crimes and Offences, after they had drawn up Articles against the said *J. O.* for them, or at least prepared Materials for Articles; After they had fram'd a *Petition* to the Lord Bishop of *London* to Remove him from his Living for gross Immoralities, and Subscrib'd it, and gone about the parish to get Hands to it, most of which things were done before the 1st presentment at Easter, and all of them before the last in October 1699; for it appears by a Letter under Sir *Hugh's* Hand, which I have now by me, That the *Petition* was presented to my Lord of *London* in August 1699, and from the Depositions of the Witnesses mention'd in the preceding Memorand. particularly, of *William Rust*, *Henry Bowles*, and *Jonathan Lilly*, That Sir *Hugh Everard*, *John Sorrel*, and *George Mapes*, were the persons who went about the parish to get Hands to the said *Petition*, and that they Sign'd it a Year, or 3 quarters of a Year, before April 1700. And as to the Articles it appears from the Minutes that they were Exhibited into the Consistory-Court, on Novem. 16th 1699, about a Month after the last presentment was made; And from the Deposition of Mr. *John Goodeve*, mention'd in Memorand. 3d, That about July 1699, Sir *Hugh* told him the several Crimes laid to Mr. *Oswald*. Nay the petition it self, which mentions the several Heads of the Articles, and was Subscrib'd by some in 1698, supposes that the Crimes Alledg'd were then pretended to be known and believed, and therefore the Churchwardens of that and the following year, have no excuse for not presenting them, either from their Ignorance of the pretended Crimes, or their Disbelief of the Reports about them: Neither could they pretend Ignorance of their Duty in this Case, viz. That they were bound by their Oaths to present the said Crimes of which they pretended themselves so well Assur'd, for if they believ'd

believ'd J. *Oswald* deserv'd to be prosecuted for them and turn'd out of his Living, according to the prayer of their petition to my Lord of *London*, they could not but think that they ought to be presented according to the regular and usual Cause in such Cases, of making 1st presentments at the Arch-Deacons Visitation, before any Suit is Commenced by a promoter in the Consistory-Court, (which they seem to be sensible of, when they mention the *Presentment* before the *Prosecution* of J. O. in the next *Memorandum*) and that it was at least as much their Duty to present them as the Dilapidations of the Vicarage; Seeing therefore they pretended themselves well-assur'd that J. *Oswald* was really Guilty of the said Crimes, and knew that it was their Duty by their Oath (as well as by the Canons of the Church) to present them, J. O. cannot understand how they can be excus'd from a Violation of their Oath, in neglecting to make such a presentment, unless they will charge themselves with Disingenuity and Villany in Subscribing a *Petition*, and drawing in others to Sign it, when they did not believe the Contents of it; For either they did believe the Reports of the Crimes alledg'd against J. *Oswald* to be true, or they did not; if they did, it was their Duty to present him for them, and of this they could not be ignorant; if they did not, with what Conscience and Sincerity could they Subscribe, and entice others to Sign, a petition Charging J. O. with gross Immoralities, when they believ'd the Charge to be false? But because they pretend to believe the Report of the aforesaid Crimes to be true, I can't see how they can be excus'd from breaking their Oath in not presenting them. And these wrong Measures of the promoter or his Agents, at the entrance into this Cause, of drawing in the parishioners to Subscribe a petition by false pretences, and Counterfeiting the Names of some to it, and Violating the Obligation of his or their Oath as Churchwarden, are sad Omens and Indications of the unrighteous Ways and Means which are justly to be fear'd from him, and which he afterwards made use of, in carrying on this prosecution against J. *Oswald*, as will appear in some measure by the following *Memorandums*.

Memorand. 7. That having prepared Materials for the Articles they intended to Exhibit against J. *Oswald* in *Doctor's Commons*, before they began the prosecution, they secur'd a sufficient Fund of Money for carrying it on, by the following Order of Vestry. September the 5th 1699.

" At a General Meeting of the parishioners, it was Agreed,
 " That whatsoever Sums of Money shall be Expended upon the
 Account

"Account of the *Presentment* and *Prosecution* of *J. Oswald*, Clerk, in any Court or Courts, whether Civil or Ecclesiastick, shall altogether be done at the publick Charge of the Parish, and that it shall be gather'd by a Rate." This Order was Subscrib'd by 27 of the Parishioners, and on the 16th of *September* 1699, was seen and allow'd by two Justices of the Peace, who Sign'd and Seal'd it, viz. *Samuel Wiseman* and *William Pert*.

That after they had drawn up their Articles against *J. O.* and given them into the Consistory-Court of the Lord Bishop of *London*, *November* 16, 1699, in pursuance of the foresaid General Order, they made that which follows, for raising some ready Money to carry on the foresaid Prosecution.

December 5th. 1699.

"At a General Meeting of the Parishioners, it was Agreed, That there shall be a Rate at 2 *d.* in the Pound for the Defraying the Charge of the Prosecution of *J. Oswald* in *Doctor's Commons*, and the said Rate to be gather'd by the Churchwardens." And in pursuance of this Order, a Rate was made of 2 *d.* in the Pound, which was Sign'd by two Justices of the Peace, viz. *Sam. Wiseman* and *William Walker*, and gather'd all over the Parish by *Geo. Mapes Jun'* Churchwarden for the said year 1699. That there was such a Rate made and gather'd in the Parish, appears by the Depositions of the following Witnesses.

Jonathan Lilly, a Farmer, being Examined to the 8th Article of the 1st Allegation given in by *J. Oswald*, Deposes, "That he believes that *Sir Hugh Everard* and most part of the Inhabitants of the Parish of *Much-Waltham*, have agreed to carry on this Suit against *J. Oswald*, and believes that a Rate was made in the said Parish, to raise Money to carry on the Suit against him, and that he, this Respondent, hath paid towards the said Rate. *Process*, p. 404.

John Boosey, to the said 8th Article, Deposes, "That he hath heard and believes, That *Sir Hugh Everard* and most of the Parishioners of the said Parish have agreed to carry on this Suit, (*meaning the Suit against J. Oswald*) and has heard that in order thereto, a Rate has been made in the said Parish to raise Money, to defray the Charges of this Suit. *Process*, p. 413.

Mr. Goodeve, a Witness produc'd and examin'd by *Sir Hugh*, in Answer to the 4th Interrog. of the Interrogatories first Ministr'd by *J. Oswald*, Deposes, "That he hath heard a Rate was made at a Vestry in the said Parish, of 2 *d.* in the Pound, towards
"the

“ the carrying on of this Suit against *J. Oswald*; and some told him, That they had paid towards the said Rate, and has heard that some of the said Money Rais'd by the Rate, has been employ'd towards the carrying on of this Suit. *Process*, p. 245.

William Rust, a Farmer, to the said 8th Article, Deposes, “ That he hath heard there was an Agreement between Sir *Hugh Everard* and several of the Parishioners of the said Parish, to carry on this Suit against *J. Oswald*, and that there was a Rate made in the said Parish, of which he had paid his proportion: And has heard that the said Rate was made for carrying on of this Suit against *J. Oswald*, and paying Mr. *Ker*, who is Curate in the said Parish. *Process*, p. 420,

This Money paid Mr. *Ker* looks like a Bribe to induce him to Betray *J. Oswald*, and Supplant him, as they advis'd him to do at his first coming. See *Letter in Memorand.* 3d.

Roger Knightbridge Jun' to the said 8th Article, Deposes, “ That he has heard there was a Rate in the Parish of *Much-Walsbam* for raising of Money for carrying on of this Suit against Mr. *Oswald*, of which Rate he has paid his proportion, but did not know, when he paid the same, that the Rate was for that purpose. *Process*, p. 430.

This shews how some endeavour'd to conceal their Design of raising Money for this Suit, under the cover of a Churchwarden's Rate; which Cheat *J. Oswald* hopes the Parish will no more suffer to pass upon them, if ever it should be attempted again. But 'tis certain that many of the Parishioners being aware of the Design, and knowing that the Churchwardens Disbursements requir'd no such Rate of 2d. in the Pound, refus'd to pay to the said Rate; whereupon they were threatned by Sir *Hugh Everard*, or some of his Agents, with the power of the two Justices who had Sign'd this Rate, and told that they must pay, or it would be worse for them, or in words to that effect, as some of the Parishioners have assur'd *J. O.* under their Hands. And by this means, the greatest part of those who had refus'd, were forc'd to comply with the Demands of Sir *Hugh*, or his Agents, and pay their proportion to the said Rate. And I leave it to the Learned Doctors in the *Commons*, whether the Parishioners are oblig'd, or can be constrain'd, to Contribute Money for carrying on a Promoter's Suit who is no Officer of the Parish, but altogether Independent on it, being either appointed by the Bishop, or one that Voluntarily takes upon him the Office of prosecuting, as Sir *Hugh Everard* did in this Case, who ought therefore to bear all the Expences

pences of it himself, without Charging the Parishioners, who are no ways concern'd to maintain his Suit. And I leave it to the Learned Councillors at Law, Whether this be not an illegal way of Levying Money upon the Queen's Subjects? And whether a Promoter who voluntarily Assumes to himself that Office, and Commences a Suit against the Vicar of the parish, can Compel the parishioners by Vertue of Orders and Rates Sign'd by two Justices of Peace, or any other such-like forcible Means, to pay Money towards the maintaining of his Suit? For according to all the Accounts J. O. hath heard of the Matter, the Parish is no farther oblig'd than to present a Clergyman at the next Arch-Deacon's Visitation, if there be a common Fame of his ill Life in the parish: But when once a promoter undertakes to prosecute, the Cause is taken out of the Hands of the parishioners, who are no more concern'd in it than any other persons, who are call'd upon to Testify the Truth according to their Knowledge. And J. O. believes it to be the first president of this Nature, wherein the parishioners were oblig'd, after the manner aforesaid, to Contribute their Money for maintaining the Suit of a promoter; and it is such a president as may in time (unless some stop be put to it) prove of fatal Consequence to Clergymen, especially the poorer sort of them, who are not able to Defend themselves at Law against the purse of a whole parish.

Memorand. 8. That after a sufficient Fund of Money was thus provided by commanding the purse of a parish, which is Sworn (in a Cause about Tythes in the Exchequer) to be by common Estimation, 50 Miles in Compass; Sir *Hugh Everard*, the promoter, having given into the Consistory-Court the Articles against the said J. O. *November 16, 1699*, proceeded farther, to move the said Court for the Admission of them, which was Argued *March 5th 1699*, before Dr. *Newton* the Chancellor of *London*, and Judge of the said Court, as appears by the Minutes of that Session. I shall not mention the particular Arguments that were made use of upon this Occasion by the Advocates, but only observe in general, That a Common Lawyer pleaded on behalf of *John Oswald*, the last Act of the King's most Gracious General Pardon, made in 1695, not against the Guilt of the pretended Crimes whereof J. O. was Accus'd, but against the prosecution for them; Alledging, that the purport of the said Act was, That no person should be Unquieted or Molested in his Body, Estate, or Good-Name, for any Offences Committed before *April 1695*, but such only as were there- in particularly Excepted, and others of the like heinous Nature,
That

That the far greater part of the Offences Alledg'd against J. O. were pretended to be Committed before 1695, and were not of such an enormous Nature as *Adultery and Extortion*, which are particularly Excepted in Clergymen by the said Act; and therefore he did not plead the Act of Pardon against the Prosecution for the Crime of Adultery Alledg'd in one of the said Articles [which Charge was afterwards Disprov'd upon Oath, by the Person with whom the Crime was Alledg'd to be Committed] But as to all the other Offences Charg'd upon J. O. in the said Articles, such as, The pretended Acts of Rudeness to Women, the pretended Acts of Drunkenness, some Neglects of his Ministerial Office, some Omissions or Mistakes of Names in the Register-Book, of which he is pretended to have been Guilty at some time or other, within the space of 15 or 16 years last past, he pleaded, That they were not *Enormous Crimes* in the Sense of the *Statute-Law*, i. e. Horrible and Monstrous, as that Law interprets the word *Enormous*, but were within the Benefit of His Majesty's Gracious Act of Pardon; That such Offences and others that are greater than these, had been Adjudg'd in the Courts of *Westminster-Hall*, (which are the proper and sole Interpreters of this and all other Statutes) to be within the Benefit of such Acts of General Pardon, which he prov'd by several Presidents in their Law-Books then produc'd and read: That to deny him the Benefit of this Act of Pardon, was to deny him the Right of a Subject, which he had a just Claim to; and, To admit these Articles concerning such pretended Crimes as were less Heinous than Adultery, was to Expose him to great Trouble and Expence, by a Prosecution which this Act of Pardon was design'd to prevent: And therefore it was in vain to pretend, as a certain Person did, That the said J. Oswald should have the Benefit of this Act of Pardon at the final Hearing of the Cause, for that was in effect to say, That he should have the Benefit of an Act which forbids any Prosecution for such and such Offences, after he had been fully Prosecuted for them; And besides, this delaying to Declare what Crimes were, and were not *Enormous*, would be a great Hardship upon the said J. O. because by this means he must be reduc'd to the greatest Uncertainty, whether he should prepare a Defence against the said Offences alledg'd to be Committed before the Year 1695, or no; For if he did prepare a Defence, it will Cost him great Trouble and Expence, and all this will be lost, if at last it be Judg'd, That these Offences are within the Benefit of His Majesty's Act of Pardon: And if he does not make any Defence against them, then he will be concluded to be Guilty of

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them, from the Depositions of the Promoter's Witnesses, tho' they be never so false, and such as might have been easily Disprov'd, if the said J. O. had known it be necessary. I shall only add, That a certain Dr. of the Civil Law pleaded among other things, That the foresaid Offences which were less Heinous than Adultery, were not *Enormous Crimes*, or *Atrocia flagitia*, in the sense of their Law, because they were not punish'd with *Deprivation*, as all *Atrocious Crimes* were. But notwithstanding these Pleas, the Judge deny'd J. Oswald any Benefit of the said Act, admitted all the Articles to Proof, relating to such Offences as are objected to be committed before 1695, even to the *Omissions and Mistakes of Names in the Register-Book*, (which are some of the Offences alledg'd in the said Articles) as if they were *Enormous Crimes* in Clergymen; and Deere'd a Commission for Examining the Witnesses upon all the said Articles, to the very great Trouble and Expence of J. Oswald.

Memorand. 9. That in the foresaid Commission Deere'd by the said Judge, and Granted under the Seal of the Consistory-Court, in March 1699, four Clergymen are Nam'd on either side to be Commissioners, and Impower'd by the Lord Bishop of London, joyntly and severally to Examine and Interrogate Witnesses upon the foresaid Articles, on the part of Sir *Hugh Everard*, and also upon *Interrogatories* on the part of *John Oswald*; To them therefore the said Bishop Commits his Power and Authority, requiring them to Transmit the Depositions of the said Witnesses authentically and closely Seal'd to Dr. *Newton* at *Doctors Commons*, Mr. *Edward Alexander*, or any other *Publick Notary*, being Assum'd for the Register and Scribe of their Acts, as by the said Commissions may appear: That at the foresaid time another Commission of the same nature was granted to J. O. for examining Witnesses on his first *Allegation*. That the said Mr. *Alexander*, being assum'd a Scribe for Writing the Depositions of the said Witnesses, did assume to himself the sole Power of Examining and Interrogating the Witnesses, and would not suffer the Commissioners, to whom this Power was given by the express words of the Commission, to put such Questions to the Witnesses as they thought necessary; That he behav'd himself very insolently to the Commissioners, and very partially and unjustly against J. Oswald, in taking the Depositions of the said Witnesses, will appear from the following Copies of 3 *Certificates*, under the Hands of 3 Commissioners, nam'd on the behalf of J. Oswald: viz. The Reverend Mr. *Sammel Sturgis*, Mr. *George Herriot*, and Mr. *Will. Dunbar*.

[The Copy of a Certificate against Mr. Edward Alexander, by Mr. Samuel Sturgis.]

W Hereas upon the 4th, 5th, and 6th Days of April last past, I was concern'd, as one of the Commissioners, for Executing a Commission from my Lord Bishop of London, in a Case depending in Doctors Commons between Sir Hugh Everard Baronet, and Mr. John Oswald Vicar of Much-waltham, I think my self oblig'd to Certify as follows, viz.

1. That Mr. Alexander the Register, upon the 4th of April having allow'd the Tempus consuetum of 24 hours to Mr. Oswald for framing his Interrogatories, did declare that the Promoter should proceed notwithstanding in Examining his Witnesses; and withal, that they could not secure the staying of the Witnesses upon the Place till such time as the said Mr. Oswald could Cross-examine them, whereupon rather than lose that Advantage, he was forc'd to submit to Examine the Witnesses 3 hours after the Demand, tho' in great Measure unprepared.

2. That Mr. Register would not allow the Commissioners to Examine to the Interrogatories, tho' they insist'd very much upon their Right so to do, and to put such Questions to the Witnesses as appeared very necessary for Clearing the Sense and Discovering the Truth; but did Challenge to himself the sole Power of Examining, Alledging Custom and Practice for it, and that he would take it upon himself, and Answer for it; whereby the Commissioners were several times hindred from putting many proper Questions to the Witnesses, and in my Apprehension the Cause of Mr. Oswald was much worse than otherwise it would have been.

3. That the Register did several times vary from the Words of the Witnesses, and set down other Words of his own in their stead, under pretence of fitter and properer Expressions, but most commonly to the Disadvantage of Mr. Oswald, tho' he was frequently oppos'd, and mightily complain'd of by the Commissioners for so doing.

4. That Mr. Register absolutely Refus'd to Examine one John Rust, to some Exhibites, under pretence that they were not annex'd to the Interrogatories, tho' there were Interrogatories purposely fram'd with Reference to the said Exhibites, and Mr. Oswald had them then ready to annex unto them. Mr. Register also said, That if Mr. Oswald was resolv'd to make use of the said Exhibites, they must be produc'd in Court above, (or in Words to that effect) to the best of my Remembrance, for I cannot charge my self as to the very Expressions.

5. That when one an Evidence had Deposed that he had nothing to say against Mr. Oswald of his own Knowledge, and that he knew no Ill by him himself, but look'd upon him as a good Teacher, (or to that purpose)

Purpose) and being afterwards ask'd by some of the Commissioners, Why if he knew nothing of himself against his Minister, he would offer to Sign a Petition against him, to my Lord the Bishop, wherein he was Charg'd with many scandalous Vices and Immoralities! I remember very well that the said Deponent made this Answer, viz. That he did it because he was loth to Disoblige Sir Hugh Everard, who was a good Man, and always ready to do a Neighbour a Kindness, or a good Turn, or to that Effect. This Answer of his, Mr. Register did refuse to write down, tho' he was earnestly requir'd to do so by the Commissioners, and particularly, I remember, by Mr. Reeve, who was one of the Commissioners on the part of Sir Hugh Everard. This is to the best of my Memory, and I refer my self to the Deposition.

6. That when one James Blatch, the Parish-Clerk of Much-wal-tham, had Deposed, That he always went with the Minister, Mr. Oswald, to Christenings, and that he never saw him Drunk or Disorder'd at any one of them, or in Words to the same purpose; Mr. Register being requir'd by the Commissioners to write down those words of James Blatch at length, as they came from him, did absolutely Refuse so to do, adding in stead of them, Aliter nescit, as far as I can remember, or however some such-like general Negative Terms, (for I do not charge my self as to the very Words) upon which, being asked by one of the Commissioners, If that general Expression would carry the same sense in Court, and be equally consider'd to the Advantage of Mr. Oswald, as the very words of the Witness at length? He answer'd, It was the very same thing, or to that Effect, and so it past. This is to the best of my Remembrance, and I refer my self wholly to the Deposition.

7. That when one [George Gage] an Evidence, had Deposed, That he had found Mr. Oswald Drunk, with his Hat and Wigg off, as far as I remember, and himself fall into a Ditch up to the Middle, or thereabouts, and withal said, that the Ditch was deep enough to have taken him up to the Neck, (or to that purpose) but that he was received, it seems, by a certain Lodgment, made in the Midway, I think, upon the side of the Ditch, When one of the Commissioners did very much insist, that Mr. Register would put down this Circumstance, That he should fall only up to the Middle in a Ditch, which at the same time was deep enough to have taken him up to the Neck. I cannot remember whether Mr. Register could be brought to yield to the Noting that Circumstance, but I refer my self for this to that Deposition. [This Circumstance is not set down in the Deposition of George Gage, the Evidence here refer'd to, as may appear, Process, p. 179.]

8. That when the Commissioners, upon the expiring of the Commission, did require that the Depositions should be Seal'd up with their respective
Seals,

Seals, as thinking it to be Reasonable and the Practice too, to the best of my remembrance, Mr. Register did Refuse it in this manner, viz. As a thing contrary to the constant Ordinary Practice, and also unreasonable, for that it was altogether Insignificant and Superfluous, that the Depositions should receive any other Seal but his own, which, he said, was to be an Authentick Seal, (as far as I remember) or the Seal of the Office, or to that purpose.

9. That when some of the Commissioners saw just cause (as they thought) to call for Pen and Ink, that they might take Notes of what pass, and were so Civil as to ask the Liberty of Mr. Register, I remember, he was pleas'd to represent it as such an absurd and Ridiculous Request in that Case, for that quiet sake, and in allowance to his Skill and Experience in such Matters, they were contented to be without it; which onething, as Mr. Register manag'd the Matter, has been in my Apprehension, no little Prejudice to Mr. Oswald's Cause.

I have only this to add in the General, That to the best of my Apprehension in such Matters, Mr. Register was very unfair and partial against Mr. Oswald, in taking the Examinations, especially the 3 first Days, viz. 4th, 5th, and 6th of April.

To the best of my Knowledge and Memory this is all Truth. Witness my Hand this 29th of April, 1700.

Samuel Sturgis, Vicar of Burstled Mag. Essex.

[A Copy of the Certificate of Mr. George Herriot against Mr. Edward Alexander.]

Chelmsford, April 23. 1700.

These are to Certify, That at the Execution of a Commission for Examining Witnesses at Bromesfield in the County of Essex, the 8th, 9th, and 10th Days of April Instant, in a Cause depending in the Bishop of London's Court, against Mr. Oswald Vicar of Much-Waltham, in the County aforesaid, Sir Hugh Everard Knight, being Promoter,

Mr. Alexander, appointed Clerk to write the Depositions of the Witnesses, did at several times at the Examination of the several Witnesses, positively deny and refuse the Liberty to the Commissioners, to put any Cross-Questions to the Witnesses, relating to the Articles to which the Witnesses were Examined; and the said Mr. Alexander said, That the Commissioners had nothing to do in that Case, and it was the Duty and Office of him, the said Mr.

Mr. *Alexander*, to put Questions to the Witnesses, and thereby did hinder, obstruct, and refuse Liberty to the Commissioners to put any Questions, for clearing the Truth, and Meaning of the Depositions of the Witnesses.

That the said Mr. *Alexander* did threaten the Commissioners if they did not forbear to Cross-Question the Witnesses, That he the said Mr. *Alexander*, would and might by his Authority, exclude and turn out of the Room the said Commissioners, and by such Threats did discourage and hinder the said Commissioners from asking any Questions they thought necessary.

That the said Mr. *Alexander* did say, the Commission gave no Power to the Commissioners to put any Cross-Questions, and for the future he would take care, that no Commission for the future should give any pretence for Commissioners to meddle with, or Examine, or ask any Questions of the Witnesses, but the Power of Examining them should be solely in him the said Mr. *Alexander*.

That at several times during the Examination of the Witnesses, the three days above-written, when the Commissioners did by their Authority, ask several cross-Questions of the Witnesses, relating to the Articles then Deposed to, the said Mr. *Alexander* did then positively refuse to Write down the Answers given by the Witnesses, to the Cross Questions put to them by the Commissioners, and some Answers he wrote down in other words than was Depos'd, and would not do otherwise. And the said Mr. *Alexander* did say, That whatever Compliance he gave to the Commissioners in this Case, was not his Duty, and that he was not oblig'd to take any notice of what they said, and that it was only out of his Complaisance and good Pleasure. And this Complaisance Mr. *Alexander* shew'd but very seldom, and as a great Favour.

The said Mr. *Alexander* refus'd to admit several Exhibites that were offered by Mr. *Oswald* for the Vindicating his Reputation, and lessening the Testimony of several Witnesses brought against him.

Mr. *Alexander* did refuse, at the Desire of the Commissioners, to write down several Answers made by the Witnesses, to such Cross-Questions as were put to them by the said Commissioners, all which Cross-Questions were put to them against the Will and Pleasure of the said Mr. *Alexander*, viz.

When one *Anne Outing*, a Labourer's Wife, Depos'd, That Mr. *Oswald* had, instead of Registering a Daughter of Mr. *Rotheram*, he had Registered a Son: The Commissioners ask'd her, if ever,

at

‘at any time she had seen Mr. *Oswald* Baptize any of Mr. *Rotheram*’s Children? the Deponent answer’d positively, That she never saw, nor was present when Mr. *Oswald* Baptiz’d any of his Children. This Mr. *Alexander* refus’d to write down accordingly in the words Sworn to.

‘After Mrs. *Rust* had Depos’d, That Mr. *Oswald* neglected the Registering the Baptism of a Child, and had Repeated the hear-say-Stories of his Reputation, because she was an old Inhabitant of the Parish, a Commissioner ask’d her, If in all the time she had known Mr. *Oswald* (she being a Midwife, and thereby having Occasion to be often in Company with him at Christ-nings) she had ever seen, or, of her Knowledge did know, Mr. *Oswald* to do any thing, that was Rude or Uncivil to her self or any other? She answer’d positively, That she had at no time seen the said Mr. *Oswald*, nor knew him do any thing that was Rude or Uncivil. This Mr. *Alexander* refus’d to write down in her Deposition.

‘When Goodiman *Rolfe* had told a long hear-say Story of Mr. *Oswald*’s Reputation, the said *Rolfe* said, he had it from one Jumping Jack, and That the said Jumping Jack was a Notorious, Scandalous, and Infamous Lyar and Swearer; The said Mr. *Alexander* Refus’d to write down the Character *Rolfe* gave of Jumping Jack.

‘After one *Holmstead* had given in his Testimony, he being an Ale-House-Keeper, one of the Commissioners ask’d him if the said Mr. *Oswald* had been at any time at his House in Company, and if he had at any time seen the said Mr. *Oswald* Drunk, or inclin’d to Drink immoderately and excessively: The said Deponent did Declare, That he never did see him Drunk, nor inclin’d to Drink excessively, at any of the several times he had been at his House. [The said Mr. *Alexander* being desired to write down these Words of Mich. *Holmstead*, he refus’d to do it.]

‘One Mrs. *Earle*, an Ale-House-Keeper, being ask’d if she knew or had seen Mr. *Oswald* drink strong Beer in the Morning? She Answer’d, Never, but that Morning after he rose at Goodman *Havans*’s, where she had procur’d a Bed for him the Night before; That the said Mr. *Oswald* came to her House next Morning, and that Goodman *Havans* came along with him, and that they two with her self and Mother, had about two Pots of Beer.

‘When *Havans* aforesaid, an Ale-House-Keeper also of *Chelmsford*, came to give his Testimony about the same Matter with Mrs. *Earle*, he upon the Question put to him by the Commissioners, positively Declar’d, and Repeated it often, That he did not go with
Mr

Mr. Oswald to Earl's House next Morning after he lay at his House, and that he did not Drink there with Mr. Oswald, nor any-where else but at his own House. Mr. Alexander Refus'd to write down this Deposition of Goodman Havan's.

These Particulars I Noted in my Pocket-Book, and many other Irregularities of Mr. Alexander, and do hereby Certify them to be true, under my Hand,

George Herriot, one of the Commissioners.

The Originals of these two Certificates Subscrib'd with the Names above written, were given into the Consistory-Court, on the 4th of May 1700, as appears by the Minutes of that Day. There is a Third Certificate written about the same Matter, by the Reverend Mr. William Dunbar, which was not deliver'd into the said Court, because it was not Subscrib'd with his Name, tho' it was certainly of his own Hand-writing, which is as follows;

[A Copy of a Certificate from Mr. William Dunbar against Mr. Alexander.]

I Certify, That on the 4th of April, when we were Executing Sir Hugh Everard's Commission, Mr. Register, soon after the first Witness was produc'd, did Claim the sole Right of Examining the Witnesses, affirming that neither the Attention, nor the Presence of the Commissioners, was necessary, and that for the future he would take Care, that all Examinations of that kind should be Transacted without Commissioners, which was the Reason that I omitted to put several Questions that might have been Serviceable to the Truth.

I Certify, That the Witnesses words were sometimes Chang'd, or Expounded into the Words of the Article, which seem'd to me to carry a more Criminal Sense than could be Collected from the Words of the Deponent.

I Certify that Mr. Oswald's Church-Clerk, having Depos'd upon Oath, in Answer to an Interrogatory, Whether he had ever seen Mr. Oswald Drunk, That he had never seen him Drunk in his Life; These express Words were not set down, tho' we desir'd it, but the Register assur'd us, That he had set the Sense down in Words Equivalent.

'I do certifie, that some Exhibites mark'd by several Numbers, being offer'd on Mr. *Oswald's* Part, on the 5th or 6th of *April*, at the Examination of Mr. *John Rust*, the Register refus'd to admit them at that time, promising to receive them in a more proper place.

'I certifie that when a Motion was made, that the Depositions should be Seal'd with the Seals of the Commissioners, Mr. Register Replied, That it was unnecessary, seeing he could break open their Seals if he pleas'd, and affix his own, which was sufficient.

To these *Certificates* I shall add the Copy of some part of a Letter from the Reverend Mr. *George Herriot* (the Original whereof I have still by me under his own Hand) because it relates to the same matter, and confirms what he had certified before, by adding new Instances to the same purpose.

Mr. *Oswald*.

'I certified that the Register positively refus'd the Commissioners Leave to put any Cross-Questions, and declar'd it was none of theirs, but his Business: And that thereupon the Commissioners forbore to make those Cross-Questions which they thought necessary for clearing the Truth, and explaining the meaning of some Expressions in the Depositions: That he both denied to write down what was depos'd, and often alter'd at his Pleasure the Expression of the Deponent, and put his own Sense on their words. And I gave in my *Certificate* some Particulars of his Arbitrary Management of that Affair; I might have added more, but I think it needless, since they are of the same nature with those I have certified, and could have no greater effect in making void the Execution of the Commission: however, I will give you one Instance more. I observ'd when a Witness was call'd, the Register did Read the Article to which he was to be Examined; then he would say to the Witness, Do you know any of these things of Mr. *Oswald*? No, not I, says several of the Witnesses, I never knew any harm of the Man in all my Life, I cannot say I know any of these things; This was the common Answer of several of the Witnesses. Ay, but says the Register, did you never hear any such thing of him, of such and such Women, as the Register nam'd? yes, says the Witness, I have heard Stories. Tell then what you heard, says the Register: So the Witness begins his Stories he heard, and the Register writes them, but not one word of

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' what

' the Witness said at first, That he knew no Harm of Mr. *Oswald*:
 ' And this was the Register's common Method, I leave it to the
 ' Judgment of the Court to Judge of this Management; When
 ' Mrs. *Osborne*, I think, was Ask'd if she had observ'd her Daughters
 ' Throat Black and Blew, the next day after she said you had As-
 ' faulted her Chastity? She would neither say one way nor other,
 ' tho' it was Articl'd against you, and I believe by her Informa-
 ' tion, she Shifted and Dodg'd, and pretended she did not observe,
 ' she did not know but it might be Black and Blew, and yet Mr.
 ' Register would take no Notice of all this, tho' press'd to it by
 ' the Commissioners, I think if you had had *Liberty* to Cross-
 ' Question, the Depositions would have less show of Credibility.
 ' I often propos'd and press'd, That the Depositions should be
 ' Seal'd up as often as the Commissioners parted, and open'd at
 ' their next Sitting, but Mr. Register would not grant it: So he
 ' had the Sealing of them at last for me, and dispos'd of them
 ' as he pleas'd. I cannot tell if any of the Commissioners Seal'd
 ' them at last, which I am sure they should have done every time
 ' they parted, especially since there were so many places *Interlin'd*,
 ' and *Amended* while the Depositions were setting down. I know
 ' not what use was made of them where he lay.

Subscrib'd G. H.

As it was left to Mr. *Alexander* to make use of the Depositions as
 he pleased, so his going every Night in Sir *Hugh Everard's* Coach,
 during the time of Executing his Commission, to his Seat, which
 is two Miles off from *Bromefield*, the place of Examination, gave
 some cause of Suspicion, that some of Sir *Hugh's* Family, or himself,
 had the perusal of the Depositions, and so it was Reported by several
 at that time.

All the particulars above-mention'd were observ'd, and certified
 by the Commissioners aforesaid, before the Depositions of the Wit-
 nesses were publish'd, and many other Instances of Mr. *Alexander's*
 Corrupt and Unjust Practices, in taking the said Depositions have
 been since discover'd, which I shall not now Repeat; for what
 has been said is sufficient to shew,

1. That since, according to the Tenour of the Commission, the
 Power of Examining and Interrogating the Witnesses, was only
 Committed to the Clergy-Men, nam'd to be Commissioners, the a-
 foresaid Mr. *Alexander* did very unjustly assume to himself this Pow-
 er, and deny the Commissioners their Right of putting such
 Questions as they thought necessary, though they asserted it, and

con-

contested it with him; from whence I think it follows, That these Depositions of the Witnesses aforesaid, are of no Force or Validity, as being taken by an unauthoriz'd Scribe, who had no Authority for what he did by Virtue of the said Commission. And therefore J. O. has often desired an Answer to these Questions, *By what Authority he did these things? And who gave him that Authority?*

2. That if his Authority had been good, yet he has discover'd such a Bias of Partiality against J. Oswald in the whole Management of the Examinations, That no Faith or Credit ought to be given to the said Depositions, as taken and set down by him, since it appears by the above-written Certificates, That the said Mr. Alexander denied, in effect, to J. O. the *tempus Consuetum*, or the usual time of twenty-four Hours for framing Interrogatories, which is a Privilege that he ought to have Enjoy'd, and the Scribe could have allow'd him, by denying to Repeat the Promoter's Witnesses until the aforesaid time of Twenty-four Hours was Expir'd, as has been often since claimed on behalf of Sir Hugh Everard, and allow'd at the Examination of Mr. Bamford, and several other Witnesses produc'd by J. O.

That he hinder'd the Commissioners from putting many Questions to the Witnesses, which they thought necessary for discovering the Truth, or clearing the Sence of their Depositions, and refus'd to set down several Answers made by the Witnesses to the Questions put to them by the Commissioners. And if the suppressing one Question and Answer does many times quite alter the Face of a Deposition, what Credit can be due to these Depositions where so many Answers were suppress'd, which were necessary to clear the Sence of them, and appear plainly to be wanting to any one that nicely and narrowly considers them?

That the said Mr. Alexander refused to set down several things Deposed by the Witnesses, in Answer to such Questions, as he himself put to them, which tended very much either to vindicate the Reputation of J. Oswald, or Invalidate the Evidence against him, though he was earnestly desir'd by the Commissioners to set down these things. And of this the aforesaid Certificates have mentioned several Instances, to which several more may be added.

That he has confounded, and mis-represented the Sence of the Depositions of the Witnesses, by refusing to set down their Answers to several Questions *extensive*, or in words at length; (as he was de-

fired to do by the Commissioners, and was obliged to do at their De-
 sire, (and by setting them down in some general Negative Phrases,
 which he pretended to be Equivalent. Thus 'when James Blatch,
 'the Parish-Clerk of Much-Waltham had Depos'd, That he
 'went with the Minister, Mr. Oswald, to Christnings, and that he
 'never saw him Drunk or Disorder'd, at any one of them, or in words
 'to the same Purpose;' as is Certify'd by the Reverend Mr. Sam.
 Sturgis, or (That he never saw him Drunk in his Life; (As is Certified by
 the Reverend Mr. William Dunbar: This expresse Denial of the Parish-
 Clerk that he ever saw J. O. Drunk, which was of great Force for
 clearing his Reputation from several Accusations (particularly of
 those who had Sworn that he was Drunk at Christnings) was not set
 down in words at length, according to the Desire of the Commis-
 sioners. But the Answer of the said Parish-Clerk is thus set down by the
 said Scribe, 'That for the most part he (meaning the said James
 'Blatch) us'd to go along with him (meaning the said J. Oswald) to
 'Christnings in the said Parish; and then leaving out the following
 Words, which have a dependence upon the Preceding, ['That he never
 'saw him Drunk at any one of them, or, in his Life;] Instead of them,
 he sets down three Negative Phrases, after (*Et aliter referendo se ad
 pradeposita*) Respondet negative & nescit, nec concernit eum Process, 185.
 Whereof the 1st is Ambiguous, being capable of several Senses, and
 therefore the Sense of it ought to be authentically Ascertain'd
 before any Defence can be made against it; the last is the Phrase of
 the Scribe, and signifies only his Heat and Passion, when he was
 press'd by the Commissioners (as is above Certify'd) to set down
 the very Words of the Witness: But the Term *Nescit*, appears to
 be plainly contrary to the Sense of the Witness. And yet the said
 Scribe had the Confidence to assure the aforesaid Commissioners,
 That these Phrases were Equivalent to an expresse and positive De-
 nyal, and would be equally consider'd to the Advantage of Mr.
 Oswald, as the very Words of the Witness at length, as the said
 Commissioners have Testify'd in their Certificates. And the same
Hocus-Terms Respondet, Negative & Nescit, are us'd by the said Scribe,
 in Answer to a 100 Questions put to the Witnesses Examin'd in this
 Cause, which I desire those to take Notice of who read the Depo-
 sitions, because they cannot know what is contain'd under these
Negative Phrases for clearing of J. Oswald's Reputation, unless
 they compare them with the several Questions to which they are set
 down as an Answer (which I believe few or none of them do) and
 knew the determinate Sense of these *Negative Phrases*, which is very
 hard to come at, and J. O. could never yet hear from the several
 Persons he has Consulted.

That the said Mr. *Alexander*, did several times vary from the Words of the Witnesses, and set down Words of his own in their stead, under pretence of fitter and properer Expressions, whereby he could turn their Depositions to what Sense he pleas'd, but most commonly to the Disadvantage of *J. Oswald*, as is Certify'd by the aforesaid Mr. *Sturgis*; and, That he chang'd the words of the Witnesses into the words of the Article, which seem'd to carry a more Criminal Sense than what could be collected from the words of the Witnesses, as is Certified by the aforesaid Mr. *Dunbar*, (by which Means *J. O.* is charg'd in the Deposition with higher Crimes than the Witnesses intended or Depos'd) tho' he was mightily Complain'd of by the Commissioners for so doing.

That he refus'd to admit several Exhibites which tended to Vindicate *J. Oswald's* Reputation, and to Examine Witnesses to *Interrogatories* fram'd about them, and the said Mr. *Alexander* being charg'd with this before Dr. *Newton*, deny'd there were any *Interrogatories* fram'd about the said Exhibites, which the said Dr. upon Inspecting the said *Interrogatories* found to be false, and then Confess'd that *this was amiss*, tho' he rejected the Allegation which charg'd him with it.

That when the Commissioners often propos'd and press'd, That the Depositions should be Seal'd as often as they parted, and opened at their next meeting, Mr. *Alexander* would not grant it; and when after the Speeding of the Commission, the Commissioners requir'd, That the Depositions should be Seal'd with their respective Seals, (which they are required by the expresse Words of the Commission to transmit authentically and closely Seal'd to Dr. *Newton*) the Scribe refus'd it as a thing unreasonable and superfluous, because, as he said, he could break open their Seals, if he pleas'd, and affix his own; By which means he put it in his power, while he lay every Night at the Promoter's House during the time of Executing his Commission, and even after the Depositions were transmitted to *London*, to make what Alterations he pleas'd in the Depositions (by Interlineations, Marginal Additions, or otherwise) of which there are several very considerable in the Original as it now appears; and of this the said Scribe is justly to be suspected, being manifestly Guilty of so many other unfair and undue Practices.

That in general, the said Mr. *Alexander*, in taking the Examinations of the Witnesses, was very unfair and partial against the said *J. Oswald*, especially the 3 first Days, viz. the 4th, 5th and 6th Days of *April*, which were the only three Days on which Mr. *Sturgis*, who Certifys this, together with Mr. *Dunbar*, Sat as Commissioners to Examine Sir *Hugh's* Witnesses upon the afore-

the 3 last Days, being the 8th, 9th, and 10th of *April*, when Mr. *Herriot* sat as Commissioner upon the Dispatch of Sir *Hugh's* Commission, the said Mr. *Alexander* did not only deny the said Mr. *Herriot* liberty to put any Cross-Questions to the Witnesses, but did Insult and Threaten him, That if he did not forbear to Cross-Question the Witnesses, he would and might by his Authority turn him out of the Room, as is Certify'd by the said Mr. *Herriot*; who did also assure *J. Oswald* that he Protested against his unfair and unjust Proceedings, and desired his Protestation might be entered down, which the said Mr. *Alexander* refus'd to do.

That he being Conscious to himself of his wicked Design, to Murder the Reputation of *John Oswald*, did deny the Commissioners Mr. *Sturgis* and Mr. *Dunbar* the use of Pen and Ink at the time of Dispatching the said Commission, to prevent any Discovery he fear'd they might make of his *Corrupt and Unjust Practices* and Represented it as such an absurd and ridiculous Request, that they were content to be without it, to the great Prejudice of Mr. *Oswald's* Cause, as Mr. *Sturgis* in his Certificate very well observes; for hereby they were Disabled to remember the particular Questions which they thought necessary, and Mr. *Alexander* refus'd to be put, and the Answers to the several Questions put by them, which he refus'd to set down, and the several Variations from the Words of the Witnesses, of which he was Guilty, to the great Disadvantage of *J. Oswald*, all which they can now only Certify in General Terms, without mentioning many particular Instances; neither can they now call to mind the several Tricks us'd by the said Scribe, in setting down the Answers of the Witnesses, to the Questions put by himself, omitting some of their Words, adding others which they never spoke, and changing the Words and the Order of their Depositions at pleasure, of all which the said Commissioners mightily Complain'd to *J. O.* at the time of Executing the said Commission, but they cannot now perhaps remember the particulars for want of Pen and Ink to take Notes, while these things were a-doing. But since they could discover so many *Corrupt Practices* under this Disadvantage, it may reasonably be inferr'd, That they might have discover'd many more, if they had been allow'd *Pen and Ink* to take Notes; seeing as Mr. *Sturgis* observes, the said Scribe to the best of his apprehension, was very unfair and partial against *J. O.* during the whole Examination, especially the first 3 Days; which Byas of partiality, that appeared in the whole Management of the Commission, contrary to the Duty of his place, and to his Oath, does make it at least very probable, That there were several other
unfair

unfair Practices us'd by the said Mr. *Alexander*, which might escape their Discovery, particularly, in neglecting to put such obvious Questions, and set down the Answers to them, as were necessary to clear the Sense of the Witnesses, or discover the Truth; which wilful Omissions, *John Oswald* affirms may be easily discover'd, in several of the Depositions, by any one that will narrowly and impartially consider them, and that for want of the said obvious Questions and the Answers to them, he the said *John Oswald*, is deprived of an Opportunity to Disprove the said Depositions, and the Truth is Conceal'd.

Memorand. 10. That from the aforesaid Certificates of 3. of the Commissioners, an Allegation was drawn up containing the several Articles Charg'd in them against the said Mr. *Alexander*, which was given into the Consistory-Court, May the 4th 1700. and Argued before the Chancellor of London the 14th of the same Month, (as appears by the Minutes) who was pleased to Reject the said Allegation founded upon the said Certificates, and deny *J. Oswald* the liberty of proving it by the Oaths of the 3 Commissioners aforesaid; But at the same time he was so fair as to deny Costs to the Adverse Party, because, as he said, *J. Oswald* had Reason to bring this Allegation. That *J. Oswald* finding that Mr. *Alexander* the Register of the Consistory-Court, was now become his bitter Enemy upon the Account of the aforesaid Allegation, and being well assured that he was a Favourite of Mr. Chancellor's, the Judge of the said Court, by Advice of Council Appeal'd from the said Court to the Court of Arches, hoping to find there some Relief against the aforesaid Grievance of not admitting the said Allegation to Proof: But the Dean of the Arches, at the hearing of this Cause, was pleas'd to express a great Contempt of all the Country-Clergy, by saying in his lofty way, *That he for his part would never trust any of them with Executing a Commission*, which was an unseasonable Discovery of a strong Prejudice against them, and a sad Omen of the bad Success which attended *J. Oswald* in this Appeal. That after the Pleadings on both sides, which *J. O.* thinks himself oblig'd not to mention here, his Sentence was agreeable to the mean Opinion he had of the Country-Clergy, for he not only Rejected the Allegation founded upon the Certificates of 3 of them, as unworthy to be admitted to Proof by their Oaths, but Condemn'd *J. O.* in 9 l. Costs for bringing the said Allegation before him, which he was forced to pay under pain of Excommunication; tho' the former Judge refus'd to grant any Costs, against *J. O.* and Declared, That

That he had Reason to bring the said Allegation. I shall only add, That both in this Court, and the former, Mr. *Alexander* the person Accus'd, was allow'd to speak in his own Defence, tho' in neither of them, the 3 Clergymen who Accus'd him by their *Certificates*, were thought worthy to be heard, *Viva Voce*, against him, in a Cause where the Reputation of a Clergyman lay at Stake, which was thought to be Ruin'd by the evil practices of Mr. *Alexander*: which gave occasion to some to say, That the Sentence of Mr. *Dean* was as unaccountable, as the Reason of it was incomprehensible, That the Court will believe their Officers against all others, and that the Reputation of a Scribe, is much more Sacred with some Men, than that of a Clergyman, and that it is hardly possible to *Convict* a Scribe of a Crime, if the Testimony of 3 Clergymen of undoubted Credit, be not sufficient for that End. However the Cause was retain'd in the said Court of the *Archies*, and *J. O.* in the first Allegation given into the said Court, *November* 12th 1700, having set forth the Names of several Witnesses, and the several Articles to which they had Depos'd, relating to such Offences as were pretended in the said Articles to be committed before *April* 1695, Claim'd now a second time the Benefit of His late Majesty's most Gracious *Act of Pardon* made in that year, and pleaded that the aforesaid Offences, were not *Enormous Crimes*, such as are excepted in the said Act, and that therefore he ought not to be prosecuted for them: But that *Venerable and Egregious Man*, (as Mr. *Dean* is usually Stil'd in *Latin*) was pleas'd to Defer the Determination of this Matter to the final Hearing of the Cause, *i. e.* How far *J. O.* was to Enjoy the Benefit of the said Act, which forbids any Prosecution for the aforesaid Offences, shall be declar'd after he is Prosecuted as long as is possible. But it was in vain to alledge before him, That by this Delay he denied *J. Oswald* that just and present Relief which appears plainly to be intended by that Law, and reduc'd him to all the Hardships and Uncertainties mention'd in *Memorand.* 8th, for he with a Supercilious Gravity can easily despise whatever is Offer'd by a *Country Clergy-Man*, and seem'd resolv'd to serve the Interest of the Promoter, and the Officers of the Court at the Expence of *J. O.* by the continuance of the Suit: which was continued in the said Court for some time, until upon the Rejection of an Allegation by the said *Dean*, *J. O.* being told he could be very hard upon him, Appeal'd to the *High Court of Delegates*, where the Cause was retain'd and is now Depending, and therefore he does not pretend to meddle

die with any Matters lying before them, but with all humble Submission expects their just and favourable Sentence about them: Only he begs leave, for the Satisfaction of some Friends, to give a short and true Account of the bad Success the Allegation about Mr. *Alexander* met with in their Court.

After the Depositions of the Witnesses in the 1st Instance of this Cause were publish'd, J. O. compar'd the aforementioned Allegation against Mr. *Alexander* with the said Depositions, and by the help of them fix'd such things as before were doubtful, set the Matters alledg'd in a clearer Light with their proper Circumstances, and added 15 new Articles, which contain'd many new Instances of the said Mr. *Alexander's* Partiality, Injustice and Falshood. This Allegation thus alter'd and improv'd, being for the most part a new Allegation, (after the Conclusion of the Cause, was rescinded upon a Motion of the Promoter,) in January 1702. was Receiv'd by the high Court of Delegates, and being postpon'd on several Days appointed for hearing of it, at last about the 20 Day of November it was debated, whether it should be read or no; and tho' one of J. Oswald's Counsel pleaded in the Forenoon that this was for the most part a new Allegation, and contain'd such Matter as was very fit to be heard; and one of the Judges said, *It is but reasonable that we should know what it is, before we reject it*: Yet the further Debate of the Matter being put off till the Afternoon, it was then determined by a Majority of the Delegates who were present, when none of J. O.'s Counsel was in Court, That it should be rejected without reading of it. This Determination appear'd to be chiefly owing to the false Suggestions of the Promoter's Proctor, who affirm'd in the Face of the Court with his usual Modesty and Sincerity, That this Cause had been continued in the Ecclesiastical Courts for the space of 4 Years from its first Commencement; and that J. O. had already given into this Court 9 or 10 Allegations, both which Suggestions are notoriously false; for it is very well known, That the Cause, having been delay'd by 2 Appeals, and 4 several Exceptive Allegations (which were judg'd necessary on behalf of J. O. against 38 Witnesses) for about 2 years, was Concluded, and that J. O. had given in but one Allegation to this High Court, when the Conclusion of the Cause was rescinded by the Promoter upon a Groundless and Malicious Accusation (as J. O. hopes it will appear to be to this High-Court) which Occasion'd J. O.'s giving 4 Allegations more in his own Defence and Vindication, and the delay of the Final Hearing for about a year longer, which makes in all about 3 years. And yet this Impudence of the Proctor was seconded by
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the Advocates, who pleaded earnestly for this new *Summary way of Rejecting an Allegation without Reading it*; which was surprizing to some that heard them, who wonder'd that such learned Doctors should seem so much to distrust their Cause, that they durst not venture to put it to a fair Trial, Whether the Allegation was Admissible or no, as if they were afraid lest plain Sense and Reason should be too hard for all their Art and Eloquence.

But J. O. being Encourag'd by the Opinion of some Judicious Gentlemen, to whom he shew'd the Certificates transcrib'd in *Memorandum 9th*, and by the Advice of some who understand the *Forms of Proceeding* in this Court, endeavour'd and obtain'd a Warrant under the Hands of some *Condelegates*, for Hearing of the aforesaid Allegation, which he was told was the usual Course, and could not fail of attaining his End: But in this Attempt also he was frustrated by some under hand Dealings. Which Disappointments seem plainly to intimate, what a mighty Interest was employ'd in Suppressing this Allegation, and rendring this Scribe inaccessible; how Zealous some People are to Skreen their Officers from Justice, by stopping up all the Avenues for coming at it, tho' in all other Courts, as J. O. is inform'd, their Officers are easily made accountable for their Tricks and Villanies, the Allegations against them are readily heard, and the Tythe of what is Objected in the aforesaid Allegation against the said Mr. Alexander, in any other Court, being prov'd against a Clerk, would not only bring the Clerk to condign Punishment, but also set aside the Depositions taken by him.

Memorand. 11. That J. O. having shewn the Copies of the two *Orders of Vestry* aforesaid, mention'd in the 7th *Memorand.* about raising Money for carrying on the said Suit against J. O. was Advise'd by Counsel to move the *Court of King's Bench* about the said Orders, which he did in *Easter Term 1700*. And upon reading the said Orders and the Names of the two Justices of Peace who had Sign'd and Seal'd the first Order, and upon Oath made by J. O. That these were the true Copies taken from the Original Orders enter'd in the *Vestry-Book* of the Parish of *Much-waltingham*, the Court was pleas'd to give a Rule for drawing up an *Information* against the Parishioners who had Subscrib'd them; which was accordingly done: But notwithstanding this *Information* against them drawn up by a *Rule of Court*, the said Sir *Hugh Everard*, the Promoter, and his Complices, did still continue the same Illegal Practices of Levying Money without Authority in the said Parish, tho' after a different Method from what was resolv'd upon at first, as appears
by

By the Copies of the following Orders of Vestry, which have been Transcrib'd from the Vestry-Book of the said Parish, and compared with the Originals, by Mr. Thomas Oughton Deputy-Register of the High Court of Delegates.

May the 7th, 1700.

AT a General Meeting of the Parishioners, it was Agreed, That the Bond that was Sign'd by Sir Hugh Everard, and Joseph Whaples, and John Sorrel, and William Morris for 30 l. to Thomas Crampert of Great Dunmow, and also one other Bond to John Skinner of the same, shall be gathered by Rate, or otherwise.

This Order is Subscrib'd by 11 Parishioners.

November the 5th, 1700.

AT a General Meeting of the Parishioners, it was Agreed, That Mr. Thomas Wheeler shall take up at Interest 30 l. for the Discharge of his Bill against Mr. Oswald in the Court of Arches, and other Courts relating thereunto, and that the Churchwardens, or other Officers of the Parish, shall give Mr. Wheeler a Bond for to take up the Money on the Behalf of the whole Parish.

This Order is Subscrib'd by 37 Parishioners, many of whom have assured J. O. and as he believes, are ready to make Oath, That they would not have Subscrib'd it, but that Sir Hugh Overaw'd them, and said, They had as good Subscribe, for they must pay whether they Subscrib'd or no.

March the 18th, 1700.

AT a General Meeting of the Parishioners (which was call'd the Sunday before) it was Agreed, That Mr. Wheeler shall take up 40 l. more upon Bond, for the Discharge of the Courts, in the Prosecution of J. Oswald Clerk, for several enormous Crimes, and that the Bond shall be Sign'd by the same Persons that Sign'd before.

This Order was Subscrib'd by 14 Parishioners.

September the 2d, 1700.

AT a General Meeting of the Parishioners, it was Agreed, That there should be a Bond given to Mr. Crampert of Great Dunmow, for 40 l. for Defraying the Charge of the Suit in the Court of Delegates against J. Oswald Clerk.

This is Sign'd by 10 Parishioners.

From these 4 and the 2 Preceding Orders of Vestry, mention'd in *Memorandum the 7th*, It appears what illegal Courses were taken for levying Mony upon the Parishioners, and what great Sums were raised by a Rate, made and gathered by the Churchwardens in the Year 1699, and by Bonds Subscribed by the Officers of the Parish, in the Name of the whole Parish, in the Year 1700 and 1701, for carrying on of this Suit of Sir *Hugh Everard* the Promoter, at the publick Charge of the Parishioners, tho' none of them was any ways oblig'd or concern'd to pay any thing towards this Suit, which was to be maintained at the proper Expence of the said Promoter: And tho' some of them might contribute willingly towards carrying on of the said Suit, being dissatisfy'd with the said *J. O.* upon one or other of the Accounts mentioned in *Memorandum the 3d*: Yet many of them were unwilling to pay towards the said Suit, but were either drawn in by Tricks, or overaw'd by Threats, to pay the said Rate, and subscribe the said Orders for taking up Money upon Bonds, as appears by what has been said in *Memorandum the 7th*, and the Remark upon the Order *November the 5th, 1700.* And every Impartial Man who understands the World, will quickly perceive what a Hardship it is for one poor Vicar, who has no more then 30*l.* of clear Annual Income from his Living, to maintain several Suits in *Doctors Commons* and other Courts, for the space of 3 Years and upwards, against a Promoter, who Commands the Purse of a Parish 50 Miles in Compass; for it is notorious how much the Power of Mony prevails over the generality of Men, in this degenerate Age; How it corrupts the Officers of a Court, to betray the Cause intrusted with them, and makes them stick at no means, tho' never so unlawful, which may serve to compass their Ends: How it hinders those Witnesses from declaring the Truth, and detecting a false Accusation, who can, and otherwise would do it, especially when they are very poor, and depend very much upon the Promoter for their Subsistence, as many of these Witnesses in this Cause are: How it will procure witnesses to Swear any thing that the Promoter has a mind to, tho' never so false; especially in an Age wherein Perjury is grown so common, and in a Court wherein Witnesses are not punished for Swearing falsely, according to their demerit; all which base and wicked Practices are justly to be suspected in him, who had so great a share in other Things of the like Nature, as appears in the precedeing *Memorandums*, notwithstanding all the Art which has been us'd to conceal them, whereof we have an Instance in *Memorandum the 2d.*

Memorand. 12. That the said Sir *Hugh Everard* and his Complices, have not only oppress'd *J. O.* by the Power of Mony, and an over-potent Interest that has been made against him; but have also endeavoured to deprive him of any manner of subsisting, or defending himself in this Suit, By putting him to great and extraordinary Expences, in maintaining a Curate, which cost him one half of the clear Profits of his Living, In repairing the Dilapidations of his Vicarige House and Fences, which were made by the manag'd Mob, who forc'd him to leave the Parish; In making him pay more to the King's Taxes for his Living, then had been formerly paid; which in the Year 1696, was rated only at 40*l.* a Year, as my Lady *Everard* declares in her Letter transcrib'd in *Memorandum the 1st*: By hindring the Justices to grant a legal Summons to several Parishmoners, when they were presented by *J. Oswald*, for not paying their Dues, according to a late Act of Parliament about small Tythes; By engaging him in other expensive Suits, as that of Mr. Curate to *J. O.* which was begun by their Advice, managed by their Direction, and maintained at their Expence. Lastly, Sir *Hugh Everard* has refus'd to pay for 5 Years ending at *Michaelmas* last, what is due to *J. O.* for his Tythes, according to the usual Rates paid for them, in the Parish of *Much-Waltham*; and hath hindred some of his Tenants from paying for several Years for his Warren, and other Grounds hired by them: And that he may utterly withhold from the said *J. Oswald*, the said Tythes due for the said 5 Years at *Michaelmas* last, he refuses to refer the Matters contested between him and *J. Oswald*, to indifferent Arbitrators (who can Judge of them, and will pay nothing for the said Tythes to *J. O.* unless he will take just what he pleases, tho' far short of what is due; and Sacrifice the Rights of his Vicarige to the Arbitrary Will of the said Sir *Hugh*: By subtracting of which Dues, the said *J. O.* is disabled to defend himself in *Doctors Commons*, and yet he cannot recover them without a new Law-Suit.

All which particulars are either prov'd in the precedeing *Memorandums*, or are such notorious Facts as may be easily prov'd, if there be occasion.

From all which it appears, that as the Original of this Difference, was a civil Demand from Sir *H. Everard* of his Tythes and other Dues, so he has assum'd to himself an absolute Power of disposing of the Rights of the Vicarige, which *J. Oswald* conceives he is bound to maintain, by denying to pay any thing for his own Tythes for the said 5 Years last past, but what he pleases; By forbidding his Tenants (who were formerly willing to pay,) By hindring

J. Oswald of the legal and easy Means of recovering his Dues by the Justices of Peace, according to a late Act of Parliament.

Upon the whole Matter, I leave it to any judicious and impartial Man, Whether the foresaid Proceedings against J. Oswald, do not carry a Face of Injustice and Malice, and Whether it may not reasonably be presum'd that Sir *Hugh* and his Complices have been guilty of several other unjust Practices in the management of their Designs, when so much Art has been us'd to conceal any Discovery, by making the Witnesses deny what they knew; Whether the most innocent Person may not be ruin'd by the same illegal and unjust Methods which have been us'd against J. Oswald; Whether there be not few Men that can stand the Test of such a severe Scrutiny, as has been us'd against J. Oswald, by searching into all the Privacies of his Life in all Places wheresoever he has liv'd, or convers'd in City or Country, for the space of Fourteen or Fifteen Years past, among Landlords, Servants, Fellow-Lodgers, and Neighbours, Taverns and Ale-houses, and by setting Spies to dog him where he went, and to watch when he came home, on purpose to find out some Matter of Accusation against him.

And Whether it is not some Argument that J. Oswald is a Person of a vertuous and regular Life, since after all their narrow and diligent Search into the Privacies of his Life for the space of Fourteen or Fifteen Years past, they could find but very few Witnesses of any good Credit to appear against him, and even those lewd and beggarly Witnesses they gain'd, could not be prevail'd upon by all their Arts and Allurements to Swear the more heinous Crimes alledg'd against him in the *Articles*, whereas it appears by the precedeing *Memorandums*, That many, both of the Clergy and Laity, (to whom more may be added) who are Persons of undoubted Credit, and have convers'd often with him, do Certify or Depose, That J. Oswald is a Person of a fair Reputation, and not guilty of any Vices or Irregularities unbecoming his Profession:

And Whether it be not contrary to the common Interest of Humane Society, that such Rigid Enquiries should be made into Men's Lives, especially into Clergymen's, whereby their Reputation is expos'd to all the Slanderous Reports of ill-minded and indigent Persons, or such as are their Enemies for observing the Rule of the Church; And Whether the best Cause may not be ruin'd by the large Purse of a Parish Fifty Miles in Compass, considering the Power of Money, and the Corruption of Mankind in this present Age. And he leaves it to those who are well acquainted with the manner of Proceeding in the *Ecclesiastical Courts*, and the Tricks of some

some of their Officers, Whether it be not a Punishment sufficient to any Ingenuous Man for all the Offences depos'd against J. Oswald, (but not prov'd) to endure the Trouble and Expence of a Prosecution in the said Courts for the space of Three Years and upwards.

And Lastly, It is with all Humility submitted to the consideration of the most Reverend the *Archbishops*, and the Right Reverend the *Bishops*, and the rest of the Reverend Clergy now assembled in *Convocation*, what Hardships the said J. Oswald has endur'd in Defence of the Rights of the Church against the aforesaid assuming Promoter, By being driven away from his Vicarage, by the Midnight-Affaults of a manag'd Mob; and forc'd to maintain a Curate at the Expence of 30 l. a Year for Four Years and upwards, and at the same time to defend himself in *Doctors-Commons* and other Courts at *Westminster-Hall*, against the said Promoter, for Three Years and upwards, out of the yearly Profit of 30 l. receiv'd by him for his Vicarage, against the Purse of so large a Parish as his is; And Whether the Methods us'd against him the said J. Oswald to turn him out of his Living, if they be allow'd, will not make the Livings of all Clergymen precarious, and dependent upon the uncertain Tenure of any angry Gentleman's Arbitrary Will and Pleasure: And Whether therefore they may not think it expedient according to their Great Wisdom and Care to protect the Rights of the Clergy, to provide some effectual Remedy against the foresaid Methods; And particularly, To secure Clergymen in their Houses, against the Assaults of a Midnight Mob; To provide some Remedy against the aforesaid *undue Practices* of Scribes in taking and setting down the Depositions of Witnesses, and to oblige the Court to admit the *Allegation* of such *Practices* to Proof, To prevent such vexatious and expensive Suits, in the *Ecclesiastical Courts*, against Clergymen, about such Facts as are depos'd by single Witnesses of ill Fame, and pretended to be done 7, 8, 9, 10, or 12 Years ago, and all illegal Combinations of Parishioners against them, manag'd by Petitions, and Midnight Attacks: And lastly, To put a stop to this new way of Raising Mony by *Orders of Vestry*, or borrowing Mony upon Bonds, given by the Officers of the Parish in the Name of the whole Parish, for carrying on the Prosecution of a Promoter, against a Clergyman, which in time, if continued, may ruin the greatest part of the Clergy in *England*, and blast their Reputation.

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 any Ingenious Man for all the Officers should agree in I. O. well
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 And lastly, It is with all Humility submitted to the consideration
 of the most Reverend the Archbishop, and the Right Reverend
 Bishops, and the rest of the Reverend Clergy now assembled in
 Convocation, what Hardships the said I. O. would be under in the
 exercise of the Rights of the Church against the aforesaid al-
 leged Promoter, by being driven away from his Vicarage, by the Mid-
 night Attacks of a managed Mob; and forced to maintain a Cause
 at the Expence of 30 l. a Year for Four Years and upwards, and
 at the same time to defend himself in Doctors Commons and other
 Courts at Westminster-Hall against the said Promoter, for Three Years
 and upwards, out of the yearly Profit of 30 l. received by him for
 his Vicarage, against the Odds of so large a Parish as his is, and
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 struments of any angry Government's Arbitrary Will and Plea-
 sure. And whether therefore the said I. O. may not think it expedient
 to send to their Great Willoughby-Care to vote the Rights of
 the Clergy, to provide some effectual Remedy against the aforesaid
 Methods; And particularly To secure Clergymen in their Houses
 against the Attacks of a Midnight Mob; To provide some Remedy
 against the aforesaid managed Practices of sedition, in taking and letting
 the Depositions of Witnesses, and to oblige the Court to admit
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